



California Regulatory Notice Register

REGISTER 2011, NO. 26-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JULY 1, 2011

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z2011-0621-03 1019

MULTI-COUNTY: Options for Youth — San Gabriel Charter School

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Oriental Fruit Fly Interior Quarantine — Notice File No. Z2011-0621-02 1020

TITLE 8. DEPARTMENT OF INDUSTRIAL RELATIONS

Labor Compliance Programs (LCPs) and Fee-Based Compliance Monitoring — Notice File No. Z2011-0621-07 1021

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Construction Safety Orders — Electrical Safety Orders — Tunnel Safety Orders — Ventilation Inside Buildings, Structures, Shafts, Culverts and Pipelines — Notice File No. Z2011-0621-06 1027

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Campus Law Enforcement Course Update — Notice File No. Z2011-0615-02 1032

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Field Training Officer (FTO) Update Course Minimum Requirements — Notice File No. Z2011-0615-01 1033

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

Business Partner Automation (BPA) Program — Notice File No. Z2011-0621-05 1035

TITLE 14. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

Beverage Manufacturer and Distributor Forms — Notice File No. Z2011-0621-01 1037

TITLE 15. BOARD OF PAROLE HEARINGS

Psychological Risk Assessments — Notice File No. Z2011-0621-04 1048

(Continued on next page)

***Time-
Dated
Material***

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION	
<i>Parole Assessments — Highest Control or Risk — Notice File No. Z2011-0617-03</i>	1051
TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION	
<i>Residence Restrictions on Paroled Sex Offenders — Notice File No. Z2011-0620-02</i>	1053
TITLE 17. DEPARTMENT OF PUBLIC HEALTH	
<i>School Immunization Requirements: Grades 7-12 — Notice File No. Z2011-0621-08</i>	1055
GENERAL PUBLIC INTEREST	
DEPARTMENT OF FAIR EMPLOYMENT HOUSING	
<i>California Employer Identification Report — List of Prospective Contractors Ineligible to Enter into State Contracts</i>	1058
DEPARTMENT OF PUBLIC HEALTH	
<i>Surgical Site Infections Reporting Requirements</i>	1059
OAL REGULATORY DETERMINATIONS	
DEPARTMENT OF CORRECTIONS AND REHABILITATION	
2011 OAL Determination No. 9 (S)	
<i>Operational Procedure #72-23, titled Comprehensive Accommodation Chrono</i>	1059
DEPARTMENT OF CORRECTIONS AND REHABILITATION	
2011 OAL Determination No. 10 (S)	
<i>Memorandum dated March 29, 2007, titled “Electrical Appliance Restrictions/Limits”</i>	1061
SUMMARY OF REGULATORY ACTIONS	
Regulations filed with the Secretary of State	1062
Sections Filed, January 26, 2011 to June 22, 2011	1065

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002-931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. “Periodicals Postage Paid in Saint Paul, MN.” **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODE

ADOPTION

MULTICOUNTY: Options for Youth — San Gabriel Charter School

A written comment period has been established commencing on **July 1, 2011** and closing on **August 15, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **August 15, 2011**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respec-

tive agency. Requests for copies from the Commission should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Notice of Proposed Rulemaking

45-Day Notice

The Department of Food and Agriculture proposes to amend subsection 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Quarantine.

This notice is being provided to be in compliance with Government Code Section 11346.4.

PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to sbrown@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on August 15, 2011. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Stephen Brown
Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street Sacramento, CA 95814
sbrown@cdfa.ca.gov
916.654.1017
916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321). Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

There is no existing, comparable federal regulation or statute regulating the intrastate movement.

This proposed amendment will remove approximately 89 square miles surrounding the Pasadena and San Marino areas of Los Angeles County from the regulation. The effect of this proposed change to the regulation will be to remove the authority for the State to perform quarantine activities against Oriental fruit fly in these additional areas.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or

- (3) Affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None.

Small Business Determination

The Department has determined that the proposed regulations will affect small business.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3423 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Lindsay Rains at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 8. DEPARTMENT OF INDUSTRIAL RELATIONS

NOTICE OF PROPOSED RULEMAKING

The Acting Director of the Department of Industrial Relations ("Acting Director") proposes to amend one regulation governing Labor Compliance Programs and five regulations governing fee-based monitoring and enforcement by the Department of Industrial Relations on state bond-funded and other specified public works projects.

PUBLIC HEARING, WRITTEN COMMENT PERIOD, AGENCY CONTACTS

Public Hearing:

A public hearing will be held on the proposals as follows:

August 15, 2011 at 10:00 a.m.

Hiram Johnson State Building
Senator Milton Marks Conference Center
455 Golden Gate Avenue
San Francisco, California 94102

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Acting Director requests but does not require persons who make oral comments to submit a written copy of their testimony.

Written Comment Period:

Any person or authorized representative may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes on August 15, 2011, at 5:00 p.m., and the Acting Director will only consider comments received by that deadline. Written comments may be submitted in person at the hearing *or* by letter, facsimile, or e-mail as follows:

DIR, Office of the Director, Legal Unit
455 Golden Gate Avenue, Suite 9516
San Francisco, CA 94102
Facsimile: (415) 703-4277
E-mail: SBX2-9Comments@dir.ca.gov

Agency Contacts:

Inquiries concerning the proposed regulations may be directed to:

Primary Contact:

John Cumming
Department of Industrial Relations
Office of the Director, Legal Unit
455 Golden Gate Avenue, Suite 9516
San Francisco, CA 94102
(415) 703-4265

Back-up Contact:

Nance Steffen
Department of Industrial Relations
Office of the Director
160 Promenade Circle, Suite 330
Sacramento, CA 95834
(916) 928-4756

Questions about the substance of the proposed regulations may be directed to either Mr. Cumming or Ms. Steffen.

AUTHORITY AND REFERENCE

Authority: Labor Code Sections 54, 55, 1742(b), 1771.55(b), and 1773.5.

Reference: Sections 17250.30 and 81704, Education Code; section 6531, Government Code; sections 1771.3, 1771.5, 1771.55, 1771.7, 1771.75, 1771.8, 1771.85, and 1771.9, Labor Code; and sections 6804, 20133, 20175.2, 20193, 20209.7, 20688.6, and 20919.3, Public Contract Code.

INFORMATIVE DIGEST / POLICY STATEMENT
OVERVIEW

Overview:

The laws regulating public works projects require among other things that contractors and subcontractors pay their workers not less than the general prevailing wage rates as determined under the Labor Code. State prevailing wage requirements customarily are enforced by the State Labor Commissioner (also known as the Chief of the Division of Labor Standards Enforcement) through the investigation of complaints and the issuance of civil wage and penalty assessments to compel the payment of sums found due. Historically, public agencies that award public works contracts (known as “awarding bodies”) have also shared responsibility for monitoring compliance with prevailing wage requirements, taking cognizance of violations, and pursuing appropriate enforcement action.

Through the adoption of Labor Code section 1771.5¹ in 1989, the legislature formally recognized and encouraged awarding bodies to initiate and enforce labor compliance programs (“LCPs”) to monitor and enforce prevailing wage requirements on their projects. LCPs must be approved by the Director and are subject to specified statutory and regulatory requirements under the oversight of the Labor Commissioner and the Director. Initially, Labor Code section 1771.5 provided for higher prevailing wage exemptions for awarding bodies that used an approved LCP for all of their public works projects. Subsequently legislation began to require awarding bodies to use LCPs on specific projects as a condition for using certain bond funds or alternative procurement methods such as design-build for those projects.²

The required use of LCPs, especially under Labor Code section 1771.7, which applied to projects funded by the Kindergarten–University Public Education Facilities Bond Acts of 2002 and 2004, led to a proliferation in the number of approved LCPs. However, after a Legislative Analyst’s Office study of the cost-effectiveness of LCPs, the legislature and governor concluded that the mandated use of LCPs was a flawed enforcement model and that the Department could monitor and enforce compliance more effectively for less cost. This led in turn to the adoption in early 2009 of SBX2–9,³ which replaced the required use of LCPs for specified projects with a requirement to pay a fee to the Department for compliance monitoring and enforcement on those projects. SBX2–9 also extended this requirement to projects funded by *any* state-issued public works construction bond (rather than just specified bonds).

¹ Stats. 1989, ch. 1224, §2.

² A list of these laws is available at <http://www.dir.ca.gov/lcp/StatutesRequiringLCPs.pdf>.

³ Stats. 2009–2010, 2d Ex. Sess., ch. 7.

SBX2-9 further specified that its requirements would go into effect upon the determination and adoption of the fees to be charged for these services and the adoption of regulations setting forth the manner in which the Department would ensure compliance with and enforce prevailing wage compliance on subject projects. The former Director commenced a rulemaking in November of 2009 to establish fees, with related notice and fee waiver requirements, and to set forth the specific monitoring and enforcement activities to be undertaken by a new Compliance Monitoring Unit (“CMU”) within the Division of Labor Standards Enforcement. Final regulations were approved by the Office of Administrative Law and filed with the Secretary of State on June 29, 2010, and were set to become effective on August 1, 2010.⁴

Just prior to the effective date of the new regulations, other state agencies and their bond counsel within the Attorney General’s Office raised concerns regarding the consistency of SBX2-9’s fee requirements with other legal requirements governing the expenditure of bond funds. In light of these concerns, bond counsel was unwilling to write an unqualified opinion letter for an upcoming bond sale, thereby jeopardizing the state’s ability to sell bonds to fund public works projects. The former Director then conducted an emergency rulemaking to delete the new subchapter 4.5 regulations, thereby delaying the applicability of SBX2-9’s fee requirements and removing the impediment to issuing unqualified bond opinions and selling bonds while the concerns raised by bond counsel were addressed.

Because emergency regulations can only remain in effect up to a maximum of 360 days (per Government Code section 11346.1), the emergency rulemaking had the effect of suspending but not fully repealing the new subchapter 4.5 regulations.⁵ By law, the suspended regulations will become effective unless replaced by permanent regulations or an order of repeal adopted through a regular rulemaking within that same time period. At the present time, the emergency action has been extended once and is set to expire on August 1, 2011, but is potentially eligible for one more 90-day extension through October 31, 2011.

The Acting Director is now conducting this regular rulemaking for the purpose of modifying certain re-

quirements in the subchapter 4.5 regulations in order to accommodate concerns raised by bond counsel. These proposed modifications are principally related to fees and to the effective date of the new requirements. The Acting Director is not proposing to modify the standards governing the operation of the Compliance Monitoring Unit in sections 16460 through 16464 or other regulatory requirements that were not implicated in the concerns raised by bond counsel. Instead, the provisions will be restored once the emergency rulemaking expires and the requirements of SBX2-9, as modified by this regular rulemaking and any new legislation, become effective.

Through research and continuing consultations the legal concerns raised by bond counsel have been substantially narrowed and are focused on not construing SBX2-9 fee provisions as authorizing expenditures that would go beyond the authority provided by any specific bond measure to which the fee provisions apply. The parties to these discussions believe that some legislative changes are needed to fully resolve these concerns. Unfortunately, because the emergency suspension of the subchapter 4.5 regulations can only remain in effect until October 31, 2011, at the latest, it is necessary to commence this regular rulemaking (to supersede the emergency action) without knowing what will be adopted in any corrective legislation. Consequently, the language of these proposals has been drafted with a focus on avoiding continuing concerns under bond law but without the same level of public input and precision that went into the original language and that may be desired by the regulated public. At the same time, the Acting Director is attempting, insofar as possible, to leave intact the original regulatory language that was produced through a full and robust public rulemaking and was not implicated by the issues raised by bond counsel.

Proposed Amendments:

The Acting Director proposes to amend section 16423 within Subchapter 4 of Chapter 8, Division, Title 8 of the California Code of Regulations (Labor Compliance Programs) and sections 16450, 16451, 16452, 16453, and 16455, within Subchapter 4.5 (Compliance Monitoring by Department of Industrial Relations). Some of these changes are substantive and others are clarifying or technical, including some revisions to Reference notes.

Section 16423 pertains to the statutory requirement to have a labor compliance program pursuant to Labor Code Section 1771.5, including the findings an awarding agency must make and notices it must send when adopting such a program. Subpart (e) of this section refers specifically to the higher exemptions from prevailing requirements available to awarding bodies that use an LCP to monitor and enforce compliance on *all* of

⁴ This rulemaking added a new subchapter 4.5, consisting of sections 16450–16455 and 16460–16464, to Chapter 8, Division 1, of Title 8 of the California Code of Regulations. The same rulemaking also made several revisions to the LCP regulations in Subchapter 4 that were mostly unrelated to the new Subchapter 4.5 requirements.

⁵ The emergency rulemaking also made revisions to section 16423 of the LCP regulations to delete references to the new subchapter 4.5 regulations. With this one exception, the amendments to the LCP regulations that became effective on August 1, 2010, were *not* affected by the emergency rulemaking.

their projects. The Acting Director proposes to delete the concluding phrase “all public works projects in which the Awarding Body participates” and replace it with “every public works project under the authority of the Awarding Body.”

Section 16450 pertains to the applicability of the Subchapter 4.5 regulations governing Compliance Monitoring and Enforcement by the Department of Industrial Relations. The Acting Director proposes to delete the phrase “awarded on or after August 1, 2010” in the first line of subpart (a) and add the phrase “and for which the public works contract is awarded on or after January 1, 2012, or the effective date of these regulations, whichever is later” at the end of both subpart (a) and subpart (b). The Acting Director is also proposing to correct the Reference note by adding two more statutory sections that will require fee-based monitoring and enforcement by the Department.

Section 16451 pertains to notice requirements for awarding bodies. The Acting Director proposes to change the title of this section from “Notice of Projects Subject to Fees” to “Notice of Projects Subject to Requirements of Subchapter.” In subpart (a), pertaining to project notices provided by awarding bodies to the Department, the Acting Director proposes to revise the language of subpart (a)(3)(G) to read as follows: “The estimated total project costs, including the gross amount of every contract for ‘public works’ within the meaning of sections 1720 and following of the Labor Code, but not including amounts paid for land acquisition or for internal costs or contracts that are not for public works within the meaning of sections 1720 and following of the Labor Code.” The Acting Director is also proposing to correct the Reference note by adding two more statutory sections that will require fee-based monitoring and enforcement by the Department.

Section 16452 pertains to the fees to be charged for compliance monitoring and enforcement by the Department. The Acting Director proposes to delete subparts (a), (b), and (c) and replace them with the following:

“(a) The Department shall charge a fee for purposes of recovering its reasonable and necessary costs that are directly related to the monitoring and enforcement of prevailing wage requirements on a project that is subject to the fee.

“(b) For projects that use funds from any bond issued by the state to fund public works projects, the maximum fee that is payable from those bond proceeds and the manner for billing and collecting that fee shall be in accordance with standards approved by the Department of Finance and any constitutional or statutory standards and limits governing the bond in question. These standards

may provide for the direct billing and payment of fees by the state board, commission, department, agency, or official that awards or administers the bond funding on the state’s behalf.

“(c) The maximum fee assessed for any project shall not exceed one-quarter of one percent of the total amount of the total project costs, including the gross amount of every contract for ‘public works’ within the meaning of sections 1720 and following of the Labor Code, but not including amounts paid for land acquisition or for internal costs or contracts that are not for public works within the meaning of sections 1720 and following of the Labor Code.”

The Acting Director is not proposing any changes to the text of subpart (d), but proposes to delete and not replace subpart (e). The Acting Director is also proposing to correct the Reference note by adding two more statutory sections that will require fee-based monitoring and enforcement by the Department.

Section 16453 pertains to the voluntary payment of fees for compliance monitoring and enforcement by the Department as an option for meeting an existing statutory requirement to have a labor compliance program. The Acting Director proposes to make conforming changes in subparts (b) and (d) of this section in light of the proposed revisions to section 16452. As amended, the subparts would read as follows:

“(b) The fee for services provided pursuant to this section shall be subject to the limitations specified in section 16452 above.

* * *

“(d) Notwithstanding subpart (c) of this section, for any project that requires both the use of a labor compliance program under Public Resources Code Section 75075 and the payment of a fee for compliance monitoring and enforcement by the Department under any other statute, the Labor Commissioner shall enter into an agreement to provide these services upon the request of the Awarding Body.”

The Acting Director is also proposing to correct the Reference note by adding two more statutory sections that will require fee-based monitoring and enforcement by the Department.

Section 16455 pertains to the standards governing fee waivers for awarding agencies with approved labor compliance programs that want to continue using those programs for projects that otherwise would be subject to the fee. The Acting Director’s only proposed change is to correct the Reference note by adding two more statutory sections that will require fee-based monitoring and enforcement by the Department.

Comparable Statutes and Regulations:

Federal law requires the payment of prevailing wages and adherence to other minimum employment standards for work performed on federal public works projects through the Davis–Bacon Act, 40 U.S.C. section 3141–3148, the Contract Work Hours and Safety Standards Act, 40 U.S.C. sections 3701–3708, and related statutes that incorporate these requirements into specific federal programs. (See 29 C.F.R. § 5.1 for a list of 60 such laws.) Some local entities, including the City and County of San Francisco, have their own prevailing wage ordinances. However, these laws all have distinct requirements in terms of the types of work covered, how prevailing wages are determined, and how prevailing wage requirements are enforced. In addition, a majority of states have long-standing prevailing wage laws, although with considerable variety as to coverage and methods of enforcement, and five other states (Alaska, New Mexico, New York, Oregon, and Washington) have some form of statutory fee that is used to fund compliance monitoring and enforcement.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Acting Director has made the following initial determinations with respect to these proposals. The Acting Director notes that she is proposing revisions to regulations that were designed to implement SBX2–9’s mandate to assess fees “sufficient to support the department’s costs in ensuring compliance with and enforcing prevailing wage requirements.” The proposed amendments impose no significant mandates, costs, or savings that are different or distinct from what the Legislature has required by statute, although these amendments are likely to result in greater administrative costs than the original text based on the anticipated need for more precise calculation and accounting of fees, for additional billings, invoicing and payments, and related efforts to adjust or collect delinquent fees. These proposals will also further delay the implementation of fee-based compliance monitoring and enforcement by the Department, resulting in higher compliance monitoring costs for many awarding bodies that must continue to comply with existing LCP requirements, and delaying the benefits of improved compliance monitoring and enforcement on bond-funded projects that currently are not overseen by LCPs. The Acting Director invites further comment on these specific impacts.

Mandates on Local Agencies or School Districts:

The proposals do not impose mandates on local agencies or school districts. 17 of the 18 statutory sections that were added or amended by SBX2–9, and four others that were added or amended by SBX2–4⁶ require lo-

cal agencies and school districts to do one or both of the following as a condition for obtaining construction bond funds, using specified contracting authority, or having higher prevailing wage exemptions: (1) establish or contract for use of an approved labor compliance program, or (2) pay a fee to the Department for prevailing wage monitoring and enforcement. Under these laws, most existing requirements to use a labor compliance program will be replaced by a requirement to pay a fee to the Department for monitoring and enforcement for any project awarded after these regulatory proposals become effective. The new fee requirement also will apply to projects funded by any state-issued public works construction bond rather than just to projects funded by specific bonds. The choice to undertake public works projects that are subject to either requirement is voluntary. For local agencies and schools districts that choose to undertake these projects, the fees required for compliance monitoring and enforcement by the Department will be substantially less than the fees they have been paying for labor compliance programs under existing statutory requirements.

Costs or Savings to State Agencies; Reimbursable Costs Imposed on Local Agencies or School Districts; other nondiscretionary costs or savings imposed on local agencies; and costs or savings in federal funding to the state:

The proposed amendments potentially may reduce the fees paid by state and local agencies for compliance monitoring and enforcement by the Department of Industrial Relations, but there is likely to be a corresponding increase in administrative costs on both sides for invoicing, billing, payment, and collection of fees.

Because participation in any public works construction that would be subject to a fee is voluntary, no non-discretionary costs or savings to local agencies or school districts will result from the proposed regulatory action, and the proposed regulatory action does not impose costs on any local agency or school district which must be reimbursed in accordance with Government Code Section 17561.

The proposals do not involve any costs or savings in federal funding to the state.

Initial Determination of Economic Impact on Business:

The Director has made an initial determination that these proposals will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The prevailing wage statutes impact only businesses that choose to enter into public works contracts, and they are neutral in their treatment of California businesses as compared to businesses from other states. These proposals do not

⁶ Stats. 2009–2010, 2d Ex. Sess., ch. 2.

change any obligations of contractors to awarding bodies other than to delay the implementation of SBX2-9.

Known Cost Impacts on Representative Private Person or Business:

These proposals will delay the implementation of SBX2-9 requirements, through which contractors will be submitting electronic certified payroll records directly to the Department of Industrial Relations on covered projects. Otherwise, these proposals will not alter the obligations of or have any known cost impact on any representative private person or business.

Creation, Elimination, or Expansion of Jobs or Businesses (Results of Assessment under Government Code section 11346.3, subpart (b)):

The Director has made initial determinations that (1) these proposals will not affect the creation or elimination of jobs within the State of California; (2) these proposals will not affect the creation of new businesses or the elimination of existing businesses within the State of California; and (3) these proposals will not affect the expansion of businesses currently doing business within the State of California.

Reporting Requirements (Finding under Government Code section 11346.3, subpart (c)):

These proposals impose no reporting, recordkeeping, or compliance requirements on businesses.

Effect on Housing Costs:

These proposals have no effect on housing costs.

Effect on Small Business:

The Director has made an initial determination that these proposals will not affect small business. These proposals are directed toward public agencies that will pay fees for compliance monitoring and enforcement of prevailing wage requirements by the Department of Industrial Relations. None of the proposals are regulations that small businesses legally would be required to comply with or that small businesses legally would be required to enforce. Small business will derive no new or distinct benefit nor will they incur any new or distinct detriment from the enforcement of these proposals.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Acting Director must determine that no reasonable alternative considered by the Acting Director or that otherwise has been identified and brought to the Acting Director's attention would either be more effective in carrying out the purpose for which the action is proposed or be as effective as the proposed action and less burdensome to affected private persons. The former Director previously determined that the existing regulatory language in Subchapter 4.5 constituted the most cost-effective means for complying with

the objectives and specific requirements of SBX2-9. However, bond counsel in the Attorney General's Office raised concerns regarding the consistency of SBX2-9's fee requirements, as implemented through the Subchapter 4.5 regulations, with other legal requirements governing the expenditure of bond funds, and, as discussed in the Overview above, these concerns were serious enough to result in the emergency repeal of the Subchapter 4.5 regulations (still continuing) in order to avoid jeopardizing the state's ability to sell bonds to fund public works projects. To address these concerns, it appears to be necessary to adopt revisions that potentially may reduce some fees but will also increase administrative costs related to fee calculations, billing, payments, collections, and accounting. With the exception of existing regulatory language that will be superseded by these proposals and these proposals, the Acting Director is not aware of any alternatives to meet the requirements and objectives of the underlying legislation. The Acting Director invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

AVAILABILITY OF INFORMATION PERTAINING TO THE PROPOSED ACTION

The Acting Director will have the rulemaking file available for inspection and copying through out the rulemaking process. Initially the file will consist of this notice, the initial statement of reasons, and the text of the proposed regulations. The text of the file will be available at the following location:

Department of Industrial Relations
Office of the Director, Legal Unit
455 Golden Gate Avenue, Suite 9516
San Francisco, CA 94102

or from contact person John Cumming.

Website:

Rulemaking records, including the text of the proposed regulations may be accessed through the Department's Internet website at <http://www.dir.ca.gov/DIR-Rulemaking.html>.

Availability of Changed or Modified Text:

After holding the hearing and considering all timely and relevant comments received, the Acting Director or her successor may adopt the proposed regulations substantially as described in this notice. If modifications are proposed which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be made available to the public for at least 15 days before the regulations are adopted as revised. Any such modifications will also be posted on the Department's website. Please send requests for co-

pies of any modified regulations to the attention of the contact persons listed above. Written comments on the modified regulations will be accepted for 15 days after the date on which they are made available.

Availability of the Final Statement of Reasons and the Rulemaking File:

Upon completion, the Final Statement of Reasons will be available and the entire rulemaking file may be obtained from the contact persons named in this notice.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **August 18, 2011**, at
10:00 a.m.
in the Auditorium of the State
Resources Building,
1416 9th Street, Sacramento,
California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **August 18, 2011**, following
the Public Meeting,
in the Auditorium of the State
Resources Building,
1416 9th Street, Sacramento,
California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **August 18, 2011**, following
the Public Hearing,
in the Auditorium of the State
Resources Building,
1416 9th Street, Sacramento,
California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders, Electrical Safety Orders, and Tunnel Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **August 18, 2011**.

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4,
Article 3
Section 1512
ELECTRICAL SAFETY ORDERS
Division 1, Chapter 4, Subchapter 5
Group 1, Section 2320.10 (Low-Voltage Electrical Safety Orders)
Group 2, Section 2940.10 (High-Voltage Electrical Safety Orders)

**First Aid for Electrical Workers
(Horcher)**

2. **TITLE 8:** **CONSTRUCTION SAFETY
ORDERS**

Division 1, Chapter 4, Subchapter 4

Article 4, Section 1533

Article 6, Section 1541

TUNNEL SAFETY ORDERS

Division 1, Chapter 4, Subchapter 20,

Article 1

Section 8403

**Ventilation Inside Shafts, Culverts,
and Pipelines**

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY
ORDERS**

Division 1, Chapter 4, Subchapter 4,

Article 3

Section 1512

ELECTRICAL SAFETY

ORDERS

Division 1, Chapter 4, Subchapter 5

Group 1, Section 2320.10 (Low-

Voltage Electrical Safety Orders)

Group 2, Section 2940.10 (High-

Voltage Electrical Safety Orders)

**First Aid for Electrical Workers
(Horcher)**

emergency medical technicians or higher level care can be provided.

The Board proposes to adopt standards which are the same as federal standards except for minor editorial and formatting differences. Because California Electrical Safety Orders are divided into Group 1, Low-Voltage and Group 2, High-Voltage ESO, the federal safety standards will be included in each Group. In addition, informative notes will be included in the existing CSO and GISO generic safety standards alerting readers to the additional provisions of the ESO.

This proposed rulemaking action contains non-substantive, editorial, reformatting of subsections, and grammatical revisions. These non-substantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these non-substantive revisions, the following actions are proposed:

CSO Section 1512, Emergency Medical Services.

This section currently prescribes the provision of emergency medical services on construction projects. It is proposed to supplement these requirements with an informative note to direct readers to the Electrical Safety Orders for additional requirements for electrical workers. The effect of this amendment will be to clarify medical services and first aid provisions for electrical workers in a construction setting.

Low-Voltage ESO Section 2320.10, Medical Services and First Aid.

This new section will be verbatim of 29 CFR 1910.269(b), Medical Services and First Aid, except for minor editorial and formatting differences. The effect of this new section will be to prescribe medical services and first aid for workers performing work on low-voltage electrical equipment in a construction or general industry setting that is at least as effective as that prescribed by federal standards.

High-Voltage ESO Section 2940.10, Medical Services and First Aid.

This new section will be verbatim of 29 CFR 1910.269(b), Medical Services and First Aid, except for minor editorial and formatting differences. The effect of this new section will be to prescribe medical services and first aid for workers performing work on high-voltage electrical equipment in a construction or general industry setting that is at least as effective as that prescribed by federal standards.

GISO Section 3400, Medical Services and First Aid.

This section currently prescribes applicable requirements regarding medical services and first-aid in general industry. It is proposed to supplement these requirements with an informative note to direct readers to the Electrical Safety Orders for additional requirements for

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board) intends to adopt the proposed rulemaking action pursuant to Labor Code Section 142.3, which mandates that the Board adopt standards at least as effective as federal standards addressing occupational safety and health issues.

Federal 29 CFR 1910.269(b) includes first-aid requirements for electrical workers. It has been discovered that there is currently no equivalent safety standard for electrical workers in the California Electrical Safety Orders (ESO). Although the General Industry Safety Orders (GISO) and Construction Safety Orders (CSO) contain generic safety standards, these standards do not adequately address the specific needs of electrical workers who are exposed to the hazards of burns and electrical shock injuries, which are very different and usually much more severe than the hazards that other workers are exposed to. Because of the potential severity of these injuries and the remote locations where electrical workers are often sent to work, immediate medical aid is necessary to stabilize the injured worker until

electrical workers. The effect of this amendment will be to clarify medical services and first aid provisions for electrical workers in general industry.

The proposed standards are substantially the same as the federal standards; therefore, Labor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the Government Code. However, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written and oral comments at the public hearing is to: (1) identify any clear and compelling reasons for California to deviate from the federal standard, (2) identify any issues unique to California related to this proposal which should be addressed in a subsequent rulemaking, and (3) solicit comments on the proposed effective date. The responses to comments will be available in the rulemaking file on this matter and will be limited to the above areas.

The standards may be adopted without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards and amendments do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local

agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed standards and amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed standards and amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. TITLE 8: CONSTRUCTION SAFETY ORDERS

Division 1, Chapter 4, Subchapter 4

Article 4, Section 1533

Article 6, Section 1541

TUNNEL SAFETY ORDERS

Division 1, Chapter 4, Subchapter 20,
Article 1

Section 8403

**Ventilation Inside Shafts, Culverts,
and Pipelines**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Tunnel Safety Orders (TSO) Section 8403(a)(4) states that the TSO apply to all shafts that exceed 20 feet in depth. This standard refers to the Construction Safety Orders for shafts 20 feet or less in depth and excavations unrelated to the TSO. TSO Section 8470 addresses internal combustion engines used underground and specifies ventilation requirements. The intent of this standard is to ensure that workers are provided with air that

is safe and healthful to breathe. In its Memorandum to the Standards Board and Form 9–60 dated December 30, 2010, the Division of Occupational Safety and Health (Division) notes that the existing Construction Safety Orders (CSO) requirements for internal combustion engines are contained in Section 1533 but only apply to work inside buildings or enclosed structures. The CSO are silent with regard to ventilation for shafts 20 feet or less in depth and construction-related excavations. The Division requests the Board to amend CSO Sections 1533 and 1541 to address this issue. An amendment to Section 8403(a)(4) of the TSO is proposed to refer to Section 1533(b) of the CSO for tunnels and excavations unrelated to the TSO.

Section 1533. Internal Combustion Engines.

Subsection (b)

Section 1533 describes methods of controlling dangerous gasses or fumes from internal combustion engine-driven equipment when operated inside buildings or enclosed structures.

A new subsection (b) is proposed that applies to employees working in shafts, culverts and pipelines and requires an exhaust ventilation system to be provided to prevent employee exposures to internal combustion engine emissions through the use of exhaust ventilation or forced air ventilation or both. The amendment will ensure that when internal combustion engine-driven equipment is operated inside shafts, culverts or pipelines, ventilation is provided at specific minimum airflow rates of fresh air to maintain concentrations below acceptable limits. These provisions are consistent with TSO Section 8470(c). An informative Note is proposed to tell the employer that the TSO applies to shafts greater than 20 feet in depth and excavations unrelated to the CSO.

Section 1541. General Requirements.

Subsection (g)(3)

Existing Section 1541 addresses general requirements regarding excavations. A new subsection (g)(3) is proposed requiring that ventilation as specified in Section 1530 and the proposed Section 1533(b) be provided when internal combustion engine-driven equipment is operated inside a shaft regulated under Section 1542. The amendment will ensure that ventilation is provided so that internal combustion engines used in enclosed spaces do not cause harmful exposures. An informative Note is proposed to tell the employer that the TSO applies to shafts greater than 20 feet in depth and excavations unrelated to the CSO.

Section 8403. Scope and Application.

Subsection (a)(4)

Section 8403 of the TSO establishes minimum safety standards for underground operations involving ex-

cavations, construction, alteration, repairing, renovating or demolishing. An amendment to existing subsection (a)(4) is proposed to add a reference to Section 1533 of the CSO for shafts 20 feet or less in depth and excavations unrelated to the TSO. The amendment will provide clarity to the employer that tunnels and excavations not covered by the TSO are addressed by Section 1533 as well as Article 6 of the CSO.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The requirement is worded such that it would only become an issue for employers that elect to operate such equipment below ground and also allows options in meeting the ventilation criteria.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not

require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. [See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.]

The proposed regulations do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than August 12, 2011. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on August 18, 2011, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION Amend and Update the Campus Law Enforcement Course Regulation 1081

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by August 15, 2011, at 5:00 p.m.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to the:

Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes.

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code § 13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503(e) — POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

At its February 24, 2011 meeting, the Commission approved proposed amendments to Commission Regulation 1081. The proposed changes included:

- Increasing the hours of the Campus Law Enforcement Course from 32 to 40 — The hours in various topical areas were adjusted to allow for more instruction in the areas of Laws and Liability/Mandated Reporting Requirements, Tactical Awareness (including new material on response to active shooters), and Standardized Emergency Management/Incident Command Systems. Additionally, the one hour examination previously given at the end of the course was replaced with four hours of presenter-developed Learning Activities and Group Exercises, to enhance instruction and address local needs.

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter resources who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test to the updated curriculum. The proposed effective date is January 1, 2012.

Local Mandate

This proposal does not impose a mandate on local agencies or school districts.

Fiscal Impact Estimates

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with § 17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

Costs or Savings to State Agencies

POST anticipates no additional costs or savings to state agencies.

Business Impact/Small Businesses

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code § 11342.610, because the Commission sets selection and training standards for

law enforcement and does not have an impact on California businesses, including small businesses.

Assessment Regarding Effect on Jobs/Businesses

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in the State of California.

Cost Impact on Representative Private Persons or Businesses

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs

None.

Alternatives

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as, and less burdensome to, affected private persons than the proposed action.

Contact Person

Please direct inquiries or written comments about the proposed regulatory action to the following:

Cheryl Smith
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
(916) 227-0544 or Cheryl.Smith@post.ca.gov
FAX (916) 227-6932

or

Patti Kaida
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
(916) 227-4847 or Patti.Kaida@post.ca.gov
FAX (916) 227-5271

Text of Proposal

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at: 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

Availability and Location of the Rulemaking File and the Final Statement of Reasons

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person named above.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION

Amend and Update the Field Training Officer Update Course Commission Procedure D-13

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by August 15, 2011, at 5:00 p.m.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to the:

Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes.

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code § 13503 — POST powers and

§ 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503(e) — POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

At its February 24, 2011 meeting, the Commission approved proposed amendments to Commission Procedure D-13. The proposed changes included:

- Adding “Driver Safety” to the minimum content listed in Procedure D-13-6, Field Training Officer Update Course Minimum Requirements

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers to ensure officer competency. This proposed action will amend the Driver Safety component of the Field Training Officer Update Course minimum requirements to make sure Officers are aware of the latest in driver safety.

All changes to the curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter resources who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test to the updated curriculum. The proposed effective date is January 1, 2012.

Local Mandate

This proposal does not impose a mandate on local agencies or school districts.

Fiscal Impact Estimates

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with §17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

Costs or Savings to State Agencies

POST anticipates no additional costs or savings to state agencies.

Business Impact/Small Businesses

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of Califor-

nia businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code §11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

Assessment Regarding Effect on Jobs/Businesses

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in the State of California.

Cost Impact on Representative Private Persons or Businesses

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs

None.

Alternatives

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency’s attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as, and less burdensome to, affected private persons than the proposed action.

Contact Person

Please direct inquiries or written comments about the proposed regulatory action to the following:

Cheryl Smith
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
(916) 227-0544 or Cheryl.Smith@post.ca.gov
FAX (916) 227-6932

or

Patti Kaida
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
(916) 227-4847 or Patti.Kaida@post.ca.gov
FAX (916) 227-5271

Text of Proposal

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at: 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

Availability and Location of the Rulemaking File and the Final Statement of Reasons

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person named above.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Sections 225.00, 225.03, 225.06, 225.09, 225.27, 225.35, 225.36, 225.42, 225.45, 225.54, 225.63, and 225.72 in Article 3.6, Chapter 1, Division 1 of Title 13, California Code of Regulations which would amend program requirements, authorize business partners to participate in the Permanent Fleet Registration Program (PFR) and process PFR transactions in the Business Partner Automation (BPA) program.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., 15 days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m. on **August 15, 2011**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code sec-

tion 1651, in order to implement, interpret or make specific Vehicle Code section 1685.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to amend Sections 225.00, 225.03, 225.06, 225.09, 225.27, 225.35, 225.36, 225.42, 225.45, 225.54, 225.63, and 225.72 in Article 3.6 of Title 13, California Code of Regulations, relating to the department's Business Partner Automation (BPA) Program.

Vehicle Code section 1685 authorizes the department to contract with private industry partners to electronically process and update registration and titling transactions. The proposed regulatory action will amend program requirements and authorize business partners who participate in the Permanent Fleet Registration Program (PFR) to process PFR vehicle add and delete transactions. In addition, the maximum monetary limits that a business partner is currently authorized to charge a customer to process a transaction would be deleted and a standardized format would be implemented for identified form titles.

§225.00. Definitions. Section 225.00 would be amended to specify the PFR inventory and define the PFR Program. In addition, other definitions would be clarified.

§225.03. Application Requirements. Section 225.03 would be amended to identify the original application revisions that allow each business partner to identify transactions that would be processed by the business partner, including the new PFR transactions.

§225.06. Fingerprints. Section 225.06 would be amended to identify the new revision date of the fingerprint form.

§225.09. Financial Security Requirements. Section 225.09 would be amended to standardize the identity of forms and documents by adding italics to the form title and identify the transactions allowed to be processed by each type of business partner on a bond.

§225.27. Transaction Access. Section 225.27 would be amended to identify the various transactions available to a business partner and inform the business partner that the authorized transactions will be listed in each business partner contract.

§225.35. Renewal. Section 225.35 would be amended to standardize the identity of forms and documents by adding italics to the form title and identify the new transactions allowed on the renewal application.

§225.36. Change of First-Line Service Provider. Section 225.36 would be amended to identify the new revision date of the Business Partner Automation Program Service Provider Change form and to require second-line business partner to collect all unassigned

accountable and controlled inventory and return to the first-line service provider.

§225.42. Business Partner Changes. Section 225.42 would be amended to standardize the identity of forms and documents by adding italics to the form title.

§225.45. Customer Fees. Section 225.45 would be amended to standardize the identity of forms and documents by adding italics to the form title and delete the monetary maximum limits a business partner is allowed to charge customers for processing transactions.

§225.54. Transaction Procedures and Inventory Requirements. Section 225.54 would be amended to identify the proposed revision of the SPA Handbook.

§225.63. Audit Requirements. Section 225.63 would be amended to eliminate business partner audit self certification form requirement.

§225.72. Voluntary Closing. Section 225.72 would be amended to standardize the identity of forms and documents by adding italics to the form title.

DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated by reference in Sections 225.03, 225.06, 225.35, 225.36 and 225.54 in Article 3.6:

- Business Partner Automation Application First-Line Business Partner form, REG 4024 (Rev. 2/2010) in Section 225.03
- Business Partner Automation Application First-Line Service Provider form, REG 4023 (Rev. 2/2010) in Section 225.03
- Business Partner Automation Application Second-Line Business Partner form, REG 4025 (Rev. 2/2010) in Section 225.03
- Business Partner Automation Program Information Security Pre-Implementation Checklist for First-Line Business Partner/First-Line Service Provider form, EXEC 5555A (New 11/2002) and Business Partner Automation Program Information Security Pre-Implementation Checklist for Second-Line Business Partner form, EXEC 5555B (New 11/2002) in Section 225.03
- Request for Live Scan Service form, DMV 8016 (Rev. 2/2008) in Section 225.03
- Business Partner Automation Renewal Application form, REG 5056 (Rev. 2/2010) in Section 225.35
- Authorized Business Partner Permit form, REG 4027 (Rev. 6/2002) in Section 225.35
- Business Partner Automation Program Service Provider Change form, REG 4022 (Rev. 4/2010) in Section 225.36

- Business Partner Automation Program Application for Changes form, REG 4026 (Rev. 9/2010) in Section 225.42
- Business Partner Automation Disclaimer form, REG 4020 (Rev. 7/2010) in Section 225.45
- “BPA Transaction Procedures and Inventory Requirements Handbook” (Revised November 2010) in Section 225.54
- Registration Operations Branch Business Partner Automation Program Representative Non-Disclosure Statement form, REG 4028 (Rev. 4/2003) in Section 225.63
- Physical Inventory (Non-DMV Entities) form, ADM175A (Rev. 2/2000) in Section 225.72

It would be impractical, cumbersome or unduly expensive to publish the documents in the California Code of Regulations. The forms are currently available to the public upon request from the department by calling its toll-free number at (800) 777-0133 or by contacting the department representative identified in this notice.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations would eliminate the department’s maximum monetary limits that a business partner is currently authorized to charge a customer to process a transaction and authorize PFR vehicle add and delete transactions to be processed by business partners.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulatory action will not create or eliminate jobs or create businesses in the state of California, will not result in the

elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.

- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will affect small businesses because the proposed regulatory action would eliminate the maximum monetary limits that a business partner may charge a customer to process transactions and authorize PFR vehicle transactions to be processed by business partners.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Erik Meyer, Regulations Analyst
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-6469
Facsimile: (916) 657-1204
E-Mail: LRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Cathy Sowell, Chief of Staff
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, the revised handbook and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 14. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

NOTICE OF PROPOSED ACTION

BEVERAGE MANUFACTURER AND DISTRIBUTOR FORMS AND REGISTRATION PERMANENT REGULATIONS

TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Resources Recycling and Recovery (Department),

Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 1, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, regarding beverage manufacturer and distributor forms and registration, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

SUBCHAPTER 1. DEFINITIONS

§ 2000. DEFINITIONS.

New Subsection 2000(a)(47.25): This subsection is added to add the definition of “transfer,” as it relates to the Beverage Container Recycling and Litter Reduction Act (Act), in that “transfer” is referenced in Public Resources Code sections 14523, 14574(a)(1), 14575(g)(1), 14575(g)(3)(B), and 14575(j)(2), but is not defined as it is related to the Act. The definition will clarify that “transfer” includes, but is not limited to, giving a beverage container as a donation, promotional giveaway, or sample item by a distributor or beverage manufacturer.

New Subsection 2000(a)(47.5): This subsection is added to add the definition of “vegetable juice” as it relates to the Act, in that “vegetable juice” is referenced in Public Resources Code Section 14504(a)(10), but is not defined as it is related to the Act. The definition will clarify that “vegetable juice” means one hundred percent juice as described in the Code of Federal Regulations Title 21 Section 102.33.

Section 2000(a) Reference:

Section 14523 is added as it gives the Division authority to require redemption payments from distributors for every beverage container sold or transferred to a dealer.

Section 14575(g)(1) is added as it gives the Division authority to require the beverage manufacturer to pay processing fees for each beverage container sold or transferred to a distributor or dealer.

Section 14575(g)(3)(B) is added as it gives the Division authority to require an annual processing fee payment for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year that has a scrap value less than the cost of recycling.

Section 14575(j)(2) is added as it gives the Division authority to determine the processing fee reduction from each processing fee account using a mathematical estimate of the number of containers sold or transferred to a distributor during the previous calendar year.

A comma has been added after 14575(a) and before Section 14575(b); the word “and” has been deleted between Section 14575(a) and Section 14575(b); and the

word “and” has been added after Section 14575(g)(3)(B) to allow for correct grammatical sentence structuring with the addition of new authority. These are nonsubstantive amendments.

SUBCHAPTER 3. MANUFACTURERS

Article 1. Labeling

§ 2200. LABELING REQUIRED.

Subsection 2200(a): This subsection is amended to provide clarity that labeling of nonrefillable beverage containers by the beverage manufacturer is required prior to the offer for sale, sale, or transfer of beverage containers in this state. This amendment will assist both the beverage manufacturer and the Division in meeting statutory and regulatory labeling requirements, and alleviate costly labeling errors.

This subsection is amended to require the beverage manufacturer to provide a sample proposed label to the Division for approval within thirty (30) days prior to labeling the beverage container, if prior approval of the label by the Division has not been obtained. Receiving a sample label in advance of labeling will assist both the Division and the beverage manufacturer in meeting statutory and regulatory labeling requirements, and alleviate costly labeling errors.

Subsection 2200(a)(1): This subsection is amended to provide clarity that Division approval of the labeling of nonrefillable beverage containers by the beverage manufacturer must be obtained prior to the offer for sale, sale, or transfer of beverage containers in this state. This amendment will assist both the beverage manufacturer and the Division in meeting statutory and regulatory labeling requirements and alleviate costly labeling errors.

Section 2200 Reference:

Section 14504(c) is amended to Section 14504, as limiting the reference to Section 14504(c) does not capture the definition of beverage, which is relevant to Section 2200.

Section 14505 is added as it defines beverage containers, the definition of which is relevant to Section 2200.

Section 14506 is added as it defines beverage manufacturer, the definition of which is relevant to Section 2200.

Section 14530.5 is deleted as it is redundant with Section 14530.5 of the Authority Section.

Section 14536 is deleted as it is redundant with Section 14536 of the Authority Section.

Section 14575 is added as it gives the Department the authority to assess a processing fee on empty beverage

containers which are required to be labeled per Section 14561 of the Act.

Article 3. Registration, Accounting and Reporting Requirements for Beverage Manufacturers

§ 2230. APPLICABILITY.

Article 3: The title of Article 3 has been amended to add the word “Registration” because this section has been amended to include registration as a requirement for beverage manufacturers.

Subsection 2230(a): This subsection is amended to provide clarity to the beverage manufacturer registration component by ensuring a registration process is specifically addressed. A registration process provides the Division the ability to apply reports and payments to the appropriate beverage manufacturer’s account, using a unique identification number assigned by the Division to the beverage manufacturer. Although beverage manufacturers generally participate in a survey process conducted by Division staff that is similar to a formal registration process to report and make payments, the addition of specific registration requirements provides clarity for those who are not participating in the Division’s survey process. (See New Section 2231(a), below.)

The “s” in the plural form of the word “payments” has been deleted to be grammatically consistent in tense with the word “requirements,” which is added to provide parallel sentence structure within the paragraph, as it relates to the previous use of “general requirements.” These are nonsubstantive amendments.

Subsection 2230(b): This subsection is amended to correct a grammatical inconsistency in the use of plural and singular tenses, and to provide consistency in referencing the “Act,” rather than both the “Act” and the “Public Resources Code.” These are nonsubstantive amendments. This subsection is also amended to add section 2231 and registration because registration is a requirement for beverage manufacturers.

Subsection 2230(c): This subsection is amended to: 1) correct a grammatical inconsistency in the use of plural and singular tenses; 2) spell out the number of days required to submit a copy of the referenced written agreement to be consistent with general legal writing style; and 3) place parentheses around the number “10” to be consistent with general legal writing style. These are nonsubstantive amendments.

This subsection is amended to provide clarity with the addition of a specific time frame of ten (10) working days for the beverage manufacturer to submit to the Division any revised agreements to report and pay on the beverage manufacturer’s behalf, in that a reasonable

time frame to require revised agreements ensures the Division receives up-to-date information.

Subsection 2230(c)(1–4): These subsections are amended to provide consistency in the use of “entity” rather than use of both “entity” and “company.” These are nonsubstantive amendments.

Subsection 2230(c)(3): This subsection is amended to allow for a potential plural form of “business and mailing address;” that is, “business and mailing address(es).” This is a nonsubstantive amendment.

New Subsection 2230(d): This subsection is added to provide an additional method to seek assurance, on behalf of the beverage manufacturer for which another entity has agreed to report and pay on its behalf, that an entity provided in the beverage manufacturer’s listing is in fact paying and reporting on its behalf. Using the annual listing submitted by the beverage manufacturer, the Division may cross-reference its data against reports and payments received, or not received, by the Division. If an entity in the listing has not met payment and reporting requirements, the beverage manufacturer may then be provided notification by the Division.

Subsection 2230(e): This subsection is renumbered from Subsection 2230(d) to Subsection 2230(e) due to the addition of new subsection 2230(d). This is a nonsubstantive amendment.

Section 2230 Authority and Reference:

Section 14506 is deleted from the Authority Section as it is more appropriately applied as a reference defining beverage manufacturer; Section 14506 is added to the Reference Section, accordingly.

Section 14505 is added to the Reference Section as it defines beverage containers, the definition of which is relevant to this section.

Section 14530.5 is deleted from the Reference Section as it is not relevant to Section 2230, in that it discusses non-applicability of Government Code and Public Contract Code sections for consulting, promotional, or advisory services necessary to implement the Division.

Section 14536 is deleted from the Reference Section as it is an authority to adopt, amend, or repeal rules and regulations, and currently appropriately appears in the Authority Section.

§ 2231. REGISTRATION.

New Section 2231, Registration: This section is added to provide a registration process to register the beverage manufacturer, in that a registration process ensures that information is reported in a standardized manner, and utilizes the information obtained to effectuate payment and reporting responsibilities.

New Subsection 2231(a): This subsection is added to require the beverage manufacturer to participate in a registration process and to receive a unique numerical

beverage manufacturer identification number. Although beverage manufacturers generally participate in a survey process conducted by Division staff that is similar to a formal registration process to report and make payments, the addition of specific registration requirements provides clarity for those who are not participating in the Division's survey process. In order for the beverage manufacturer to report and make payments to the Division, a unique identification number must be assigned by the Division to each beverage manufacturer, in that this enhances the Division's ability to apply reports and payments to the appropriate beverage manufacturer's account, using the identification number obtained through the registration process.

New Subsection 2231(b): This subsection is added to require the beverage manufacturer to contact the Division prior to the sale or transfer of beverages to ensure that the registration process is conducted as efficiently as possible. Although the majority of beverage manufacturers contact the Division prior to the sale or transfer of beverage containers, the addition of specific verbiage to do so provides clarity. Specific direction is particularly helpful in the instances of unregistered beverage manufacturers which may submit reports and/or payments that cannot be expeditiously processed until registration has been completed. In these cases, attempts are made by the Division to contact the unregistered beverage manufacturers to complete registration. However, processing of beverage manufacturer reports and/or payments is then unnecessarily delayed. Contacting the Division prior to the offer for sale, sale, or transfer of beverages also provides the Division the opportunity to educate the beverage manufacturer as to the requirements of the Act.

New Subsection 2231(b)(1): This subsection is added to require the legal name and any "Doing Business As" names of the beverage manufacturer registering. To effectuate registration, the Division requires the minimum information of the legal name and any "Doing Business As" names of the entity registering. Requiring both allows the Division's auditing staff to conduct cross-referencing of names to ensure that the entities responsible for reporting and paying are doing so. Division staff responsible for registration functions would also be provided the ability to cross-reference names to identify entities who should be registered, and thereby subject to reporting and payment requirements.

New Subsection 2231(b)(2): This subsection is added to require the beverage manufacturer to provide its federal tax identification number (also known as an Employer Identification Number), which is necessary to assist the Division's auditing staff in their conduct of audits, as its provision enables the identification of legally responsible parties. Division staff responsible for registration functions would also be provided the en-

hanced ability to cross-reference identification numbers to identify entities who should be registered (for example, if a change of ownership occurs), and thereby subject to reporting and payment requirements.

New Subsection 2231(b)(3): This subsection is added to require the beverage manufacturer to provide its Department of Alcoholic Beverage Control (ABC) Certificate of Compliance Number, if it is an out-of-state beer or other malt beverage manufacturer. This is necessary to enable the Division's auditing staff to conduct audits, as its provision provides assistance in identifying legally responsible parties. Pursuant to Public Resources Code section 14575(g)(2), the out-of-state beer or other malt beverage manufacturer holding the Certificate is deemed to be the beverage manufacturer. The Certificate of Compliance Number is required by the Division to identify the beverage manufacturer and its ABC compliance status.

New Subsection 2231(b)(4): This subsection is added to require the physical business address. This is necessary to contact the beverage manufacturer to review, verify, or provide information and/or documents, such as noncompliance notices, registration notices, or correspondence, and to provide the Division assistance in determining if the beverage manufacturer is subject to the requirements of the Act, based on its business location.

New Subsection 2231(b)(5): This subsection is added to require the beverage manufacturer to provide its mailing address.

New Subsection 2231(b)(6): This subsection is added to require, if applicable, additional business addresses, including: (A) Rented, leased, or owned California warehouse(s); (B) Sales office(s); (C) Corporate office(s) and (D) Other. These addresses are necessary to contact the beverage manufacturer to review, verify, or provide information and/or documents, such as noncompliance notices, registration notices, or correspondence, and/or to provide the Division assistance in determining if the beverage manufacturer is subject to the requirements of the Act, based on its various business locations.

New Subsection 2231(b)(7): This subsection is added to require the primary and secondary contact information of the beverage manufacturer, including name, title, telephone number, e-mail address, facsimile number, and web site, as applicable, to effectuate the Division's ability to contact the beverage manufacturer by means other than mailing and physical addresses.

New Subsection 2231(b)(8): This subsection is added to require the beverage manufacturer to indicate its type of business ownership structure, and, if requested by the Division, provide copies of its correlating ownership documentation, as follows:

- (A) Sole Proprietorship (Fictitious Business Name Statement);
- (B) Married Co-Ownership (Fictitious Business Name Statement);
- (C) Corporation (Articles of Incorporation);
- (D) Non-Profit Corporation (Articles of Incorporation);
- (E) Cooperative (Articles of Cooperation);
- (F) Limited Liability Company (Articles of Organization);
- (G) General Partnership (Statement of Partnership Authority);
- (H) Limited Partnership (Certificate of Limited Partnership);
- (I) Limited Liability Partnership (Registered Limited Liability Partnership Registration); or
- (J) Other.

This information is necessary to assist the Division in its conduct of audits, and to identify responsible parties and the individuals from whom collections might be made. This information also enables the Division to better identify the entities participating in the State's recycling program.

New Subsection 2231(b)(9): This subsection is added to require the beverage manufacturer to provide the effective date of beverage sales or transfer in California. This effective date establishes the initial reporting period expectation for ensuring the collection of reports and payments from beverage manufacturers.

New Subsection 2231(b)(10): This subsection is added to require the beverage manufacturer to indicate if beverages are offered for sale or transfer, or proposed to be offered for sale or transfer to common carriers. Per Section 14501.5 of the Act, sales to common carriers are not subject to Chapter 5, Division 2, Title 14 of the Public Resources Code.

Public Utilities Code section 211 defines, in summary, a common carrier as any person and corporation providing transportation for compensation to, or for, the public or any portion thereof. Common carrier also includes, but is not limited to, railroad corporations and every other car corporation or person operating for compensation within this state. In addition, common carrier includes, but is not limited to, every corporation or person owning or operating any vessel used in the transportation of persons or property upon the inland waters of California or upon the high seas between points within California, and any passenger stage corporation operating in California. (See Pub. Res. Code § 14501.5.)

Obtaining this information will assist the Division in its registration and auditing efforts in determining the beverage manufacturer's reporting and payment re-

sponsibilities, in that the response to this inquiry will confirm that the beverages offered for sale or sold to common carriers are not subject to the reporting and payment requirements of the Act.

New Subsection 2231(b)(11): This subsection is added to require the beverage manufacturer to indicate if free beverage samples are offered, or proposed to be offered in California. This information will assist the Division in determining the beverage manufacturer's reporting and payment responsibilities, in that "gifted" beverages are subject to the requirements of the Act.

New Subsection 2231(b)(12): This subsection is added to require the beverage manufacturer to provide the types of beverages, their container types, and the container sizes offered for sale or transfer, or proposed to be offered for sale or transfer in California. This information will assist the Division in determining the beverage manufacturer's payment and reporting responsibilities, in that specific beverage types, sold in aluminum, glass, plastic, and bi-metal containers, with specific size requirements, are subject to reporting and payment requirements.

New Subsection 2231(b)(13): This subsection is added to require the beverage manufacturer to indicate if the beverages for sale or transfer are refillable or nonrefillable. This information will assist the Division in determining the beverage manufacturer's payment and reporting responsibilities, in that the statutory and regulatory reporting, payment and labeling responsibilities are different for refillable containers.

New Subsection 2231(b)(14): This subsection is added to require the beverage manufacturer to indicate whether a California co-packer and/or contract bottler is used, or is proposed to be used, and contact information. A contract packer, or co-packer, is a company that manufactures and packages foods or other products for their clients. To market and distribute, a co-packer is commonly known within industry to work under contract with a hiring company to manufacture food and other products as though the products were manufactured directly by the hiring company. Obtaining this information will assist the Division in determining the beverage manufacturer's payment and reporting responsibilities, and provide the Division with information to contact the co-packer and/or contract bottler.

New Subsection 2231(b)(15): This subsection is added to require the beverage manufacturer to indicate whether beverages are purchased or supplied from an entity outside of California. Obtaining this information will assist the Division in determining the beverage manufacturer's payment and reporting responsibilities, and provide the Division with information to contact the exporters.

New Subsection 2231(b)(16): This subsection is added to require the beverage manufacturer to identify the

entities in California to which beverages are sold or transferred, including distributor contact information, if applicable. Obtaining this information will assist the Division in determining the beverage manufacturer's payment and reporting responsibilities.

New Subsection 2231(c): This subsection is added to require the beverage manufacturer to contact the Division with any changes to the information provided pursuant to new Subsection 2231(b)(1–16) within (10) ten working days of the changes. This provides the Division the opportunity to update its records and respond accordingly to changes in the information provided by the beverage manufacturer.

New Section 2231 Authority and Reference: New Section 2231 adds new Authority Sections 14530.5 and 14536; and new Reference Sections 14506 and 14575 to indicate the sections of statute that give the Department authority to promulgate these regulations.

§ 2235. RECORDKEEPING.

Subsection 2235(d): This subsection is amended to delete from regulations the image of the “Beverage Manufacturer Report, DR–4” form in its hard copy format, and to delete “DR 4 (1/00),” the Division's form number.

With the implementation of an internet–based tool that allows for on–line reporting, it is necessary to delete the image of the “Beverage Manufacturer Report, DR–4” form, and to delete “DR 4 (1/00),” the Division's form number. If the image of the form is removed from regulations, its appearance can be modified to more closely mirror revisions made to the reporting screen form as it appears in DORIIS, without regulatory change. Including a form number in regulations is no longer necessary as there is no form number displayed in the DORIIS reporting screens, simply the form's name: “Beverage Manufacturer Report.” (The hard copy form is available through the Department's web site or by request.)

Section 2235 Reference: Sections 14541(c) and (d) are deleted as these sections address certain hearing requirements and probationary certificate conditions, and are not specifically related to the scope and purpose of Section 2235.

§ 2240. REPORTING.

This section is amended to delete from regulatory text “DR–4 (1/00),” a Division form number, in two instances, and to add the title of “Beverage Manufacturer Report,” in place of the deleted form numbers for clarity. (See Subsection 2235(d), above.)

Subsection 2240(b): This subsection is amended to delete from regulatory text “DR 4 (1/00),” a Division form number, and to add the title of “Beverage Manufacturer Report,” in place of the deleted form number. (See Subsection 2235(d), above.)

This subsection is amended to revise examples of due dates. The year “2000” has been amended to “2010,” a more relevant year, in six instances. This subsection is amended to delete each “th” following a numerical date to maintain correct editorial standards. These are non–substantive amendments.

This subsection is also amended to state that the Beverage Manufacturer Report must be submitted no later than the tenth day of the second month following the month of sales instead of on the tenth day of the second month following the month of sales. The Division will accept a Beverage Manufacturer Report before the due date.

Section 2240 Reference:

Section 14505 is added as it provides the Division's definition of a beverage container, which is applicable to this section.

§ 2245. PAYMENTS.

Section 2245 Reference:

Section 14530.5 is deleted from the Reference Section as it is redundant with Section 14530.5 of the Authority Section.

Section 14575(h) is amended to Section 14575. This amendment more effectively encompasses the Division's authority relative to this section, in contrast to the limited reference of Section 14575(h).

SUBCHAPTER 4. DISTRIBUTORS

Article 1. Distributor Requirements

§ 2300. APPLICABILITY.

Subsection 2300(a): This subsection is amended to specifically outline the key components within the responsibilities of the distributor for registration, record–keeping, reporting, and redemption payment requirements.

New Subsection 2300(b)(1–4): This subsection is added to provide that a distributor shall: 1) notify the Division in writing if another entity has agreed to report and/or make redemption payments on its behalf; 2) provide a copy of the written agreement to report and/or make redemption payments within ten (10) working days of the initial agreement; and 3) submit any revised agreements to the Division, including termination of the agreement, within ten (10) working days of the revision. The information the Division requires to complete this process includes the names of each entity involved in the agreement; the distributor identification number; business and mailing address(es); and a signed and dated acknowledgement of the agreement by the authorized representative of each entity.

This information is necessary as, in some instances, other entities report and make the redemption payments

on behalf of the distributor. These regulatory changes will assist the Division in identifying and tracking the entities reporting and making redemption payments. Through the Division's ability to track and monitor the agreements, the Division may then notify the distributors should payment and reporting requirements not be met.

New Subsection 2300(c): This subsection is added to require the provision of an annual listing which is necessary as an additional method to seek assurance, on behalf of a distributor for which another entity has agreed to report and pay on its behalf, that each entity provided in the distributor's listing is in fact paying and reporting on its behalf. Using this listing, the Division may cross-reference its data against reports and payments received, or not received, by the Division. The distributor may then be provided notification by the Division should payment and reporting requirements not be met.

New Subsection 2300(d): This subsection is added to provide that the Division will assert its authority to hold responsible the distributor, dealer, and/or consumer liable for any due and unpaid redemption payments. In the Division's efforts to meet the needs of industry, in its allowance of reporting and payment by entities other than the distributor, the Division must also clarify that the inherent responsibilities of the participants are not absolved as a result.

Section 2300 Reference:

Sections 14530.5 and 14536 are deleted from the Reference Section as they are duplicative of Sections 14530.5 and 14536 within the Authority Section, and are not required to be cited in the Reference Section.

Sections 14511, 14523, 14537, and 14550 are added to the Reference Section: Section 14511 provides the definition of distributor; Section 14523 provides the definition of redemption payment; Section 14537 provides auditing requirements; and Section 14550 provides distributor reporting requirements, all of which are applicable to Section 2300.

§ 2301. REGISTRATION.

New Section 2301, Registration is added to provide clarity in regard to the distributor registration component, by ensuring the registration function is specifically addressed. A registration process provides the Division the ability to apply reports and payments to the appropriate distributor's account, using a unique identification number assigned by the Division to the distributor. Although distributors generally participate in a survey process conducted by Division staff that is similar to a formal registration process to report and make payments, the addition of specific registration requirements provides clarity for those who are not participating in the Division's survey process.

New Subsection 2301(a): This subsection is added to require the distributor to participate in a registration process and to receive a unique numerical distributor identification number. Although distributors generally participate in a survey process conducted by Division staff that is similar to a formal registration process to report and make payments, the addition of specific registration requirements provides clarity for those who are not participating in the Division's survey process. In order for the distributor to report and make payments to the Division, a unique identification number must be assigned by the Division to each distributor, in that this enhances the Division's ability to apply reports and payments to the appropriate distributor's account, using the identification number obtained through the registration process.

New Subsection 2301(b): This subsection is added to require the distributor to contact the Division prior to the sale or transfer of beverages to ensure that the registration process is conducted as efficiently as possible. Although the majority of distributors contact the Division prior to the sale or transfer of beverage containers, the addition of specific verbiage to do so provides clarity. Specific direction is particularly helpful in the instances of unregistered distributors which may submit reports and/or payments that cannot be expeditiously processed until registration has been completed. In these cases, attempts are made by the Division to contact the unregistered distributor to complete registration. However, processing of distributor reports and/or payments is then unnecessarily delayed. Contacting the Division prior to the offer for sale, sale, or transfer of beverages also provides the Division the opportunity to educate the distributor of the requirements of the Act.

New Subsection 2301(b)(1): This subsection is added to require the legal name and any "Doing Business As" names of the distributor registering. To effectuate registration, the Division requires the minimum information of the legal name and any "Doing Business As" names of the distributor registering. Requiring both allows the Division's auditing staff to conduct cross-referencing of names to ensure that the entities responsible for reporting and paying are doing so. Division staff responsible for registration functions would also be provided the ability to cross-reference names to identify entities who should be registered, and thereby subject to reporting and payment requirements.

New Subsection 2301(b)(2): This subsection is added to require the distributor to provide its federal tax identification number (also known as an Employer Identification Number), which is necessary to assist the Division's auditing staff in their conduct of audits, as its provision enables the identification of legally responsible parties. Division staff responsible for registration

functions would also be provided the enhanced ability to cross-reference identification numbers to identify entities who should be registered (for example, if a change of ownership occurs), and thereby subject to reporting and payment requirements.

New Subsection 2301(b)(3): This subsection is added to require the distributor provide its physical business address. This is necessary to contact the distributor to review, verify, or provide information and/or documents, such as noncompliance notices, registration notices, or correspondence, and to provide the Division assistance in determining if the distributor is subject to the requirements of the Act, based on its business location.

New Subsection 2301(b)(4): This subsection is added to require the distributor to provide its mailing address. (See 2301(b)(5), above.)

New Subsection 2301(b)(5): This subsection is added to require additional business addresses, including: (A) Rented, leased, or owned California warehouse(s); (B) Sales office(s); (C) Corporate office(s); and (D) Other. These addresses are necessary to contact the distributor to review, verify, or provide information and/or documents, such as noncompliance notices, registration notices, or correspondence, and/or to provide the Division assistance in determining if the distributor is subject to the requirements of the Act, based on its various business locations.

New Subsection 2301(b)(6): This subsection is added to require the primary and secondary contact information of the distributor, including name, title, telephone number, e-mail address, facsimile number, and web site, as applicable, to effectuate the Division's ability to contact the distributor by means other than mailing and physical addresses. (See 2301(b)(5), and 2301(b)(6) above.)

New Subsection 2301(b)(7): This subsection is added to require the distributor to indicate its type of business ownership structure, and, if requested by the Division, provide copies of its correlating ownership documentation, as follows:

- (A) Sole Proprietorship (Fictitious Business Name Statement);
- (B) Married Co-Ownership (Fictitious Business Name Statement);
- (C) Corporation (Articles of Incorporation);
- (D) Non-Profit Corporation (Articles of Incorporation);
- (E) Cooperative (Articles of Cooperation);
- (F) Limited Liability Company (Articles of Organization);
- (G) General Partnership (Statement of Partnership Authority);

(H) Limited Partnership (Certificate of Limited Partnership);

(I) Limited Liability Partnership (Registered Limited Liability Partnership Registration); or

(J) Other.

This information is necessary to assist the Division in its conduct of audits, and to identify responsible parties and the individuals from whom collections might be made. This information also enables the Division to better identify the entities participating in the State's recycling program.

New Subsection 2301(b)(8): This subsection is added to require the distributor to provide the effective date of beverage sales or transfer in California. This effective date establishes the initial reporting period expectation for ensuring the collection of reports and payments from distributors.

New Subsection 2301(b)(9): This subsection is added to require the distributor to indicate if beverages are offered for sale or transfer, or proposed to be offered for sale or transfer to common carriers.

Public Utilities Code section 211 defines, in summary, a common carrier as any person and corporation providing transportation for compensation to, or for, the public or any portion thereof. Common carrier also includes, but is not limited to, railroad corporations and every other car corporation or person operating for compensation within this state. In addition, common carrier includes, but is not limited to, every corporation or person owning or operating any vessel used in the transportation of persons or property upon the inland waters of California or upon the high seas between points within California, and any passenger stage corporation operating in California. (Also see Pub. Res. Code § 14501.5.)

Obtaining this information will assist the Division in determining the distributor's reporting and payment responsibilities, in that the response to this inquiry will confirm that the beverages offered for sale or sold to common carriers are not subject to the reporting and payment requirements of the Act.

New Subsection 2301(b)(10): This subsection is added to require the distributor to indicate if free beverage samples are offered, or proposed to be offered in California. This information will assist the Division in determining the distributor's reporting and payment responsibilities, in that "gifted" beverages are subject to the requirements of the Act.

New Subsection 2301(b)(11): This subsection is added to require the distributor to provide the types of beverages, their container types, and the container sizes offered for sale or transfer, or proposed to be offered for sale or transfer in California. This information will assist the Division in determining the distributor's pay-

ment and reporting responsibilities, in that specific beverage types, sold in aluminum, glass, plastic, and bi-metal containers, with specific size requirements, are subject to reporting and payment requirements.

New Subsection 2301(b)(12): This subsection is added to require the distributor to indicate if the beverages for sale or transfer are refillable or nonrefillable. This information will assist the Division in determining the distributor's payment and reporting responsibilities, in that the statutory and regulatory reporting, payment and labeling responsibilities are different for refillable containers.

New Subsection 2301(b)(13): This subsection is added to require the distributor to provide the name and location of beverage suppliers in California, including contact information. Obtaining this information will assist the Division in determining the origin of beverages, which will enable the Division to determine registration, payment, and reporting responsibilities.

New Subsection 2301(b)(14): This subsection is added to require the distributor to indicate if beverages are purchased or supplied from an entity outside of California. This information will assist the Division in determining the distributor's reporting and payment responsibilities.

New Subsection 2301(b)(15): This subsection is added to require the distributor to identify the entities in California to which beverages are sold or transferred, including distributor contact information, if applicable. Obtaining this information will assist the Division in determining the distributor's payment and reporting responsibilities.

For example, information regarding sales of beverages to a distributor, which then re-sells the beverage to a second distributor, or to other business entities engaged in the purchase, sale, or distribution of beverages, is necessary to assist the Division in determining payment and reporting responsibilities, in that the last distributor that sells the beverage to a dealer is responsible for payment and reporting.

New Subsection 2301(c): This subsection is added to require the distributor to apprise the Division of any changes to the information provided pursuant to new Subsection 2301(b)(1-15) within (10) ten working days of the changes. This provides the Division the opportunity to update its records and respond accordingly to changes in the information provided by the distributor.

New Section 2301 Authority: New Section 2301 adds new Authority Sections 14530.5 and 14536 to indicate the sections of statute that give the Department authority to promulgate these regulations.

New Section 2301 Reference: New Section 2301 adds new Reference Sections 14501.5, 14511, 14550, 14560, and 14574. Section 14501.5 provides the ex-

emption from the Act for common carriers; Section 14511 provides the definition of distributor; Section 14550 provides distributor reporting requirements; and Sections 14560 and 14574 provide redemption payment requirements, all of which are associated with registration.

§ 2305. RECORDKEEPING.

Subsection 2305(c): This subsection is amended to delete from regulations the image of the "Distributor Report, DR-3" form in its hard copy format; to delete "DR-3 (7/07)," the Division's form number in two instances; and to add the title of "Distributor Report," in place of one of the deleted form numbers for clarity.

The Division began the Division of Recycling Integrated Information System (DORIIS) project in June 2007. DORIIS is a free internet-based tool for the recycling community that is designed to improve business processes, eliminate duplicative data entry, and provide program participants with timely and accurate information, as well as improved data analysis and reporting. DORIIS allows participants to report electronically, and receive or make payments electronically.

With the implementation of an internet-based tool that allows for on-line reporting, it is necessary to delete the image of the "Distributor Report, DR-3" form, and to delete "DR-3 (7/07)," the Division's form number. If the image of the form is not included in regulations, its appearance can be modified to more closely mirror revisions made to the reporting screen form as it appears in DORIIS, without regulatory change. Including a form number in regulations is no longer necessary as there is no form number displayed in the DORIIS reporting screens, simply the form's name: "Distributor Report." (The hard copy form is available to distributors through the Department's web site or by request.)

Section 2305 Reference: Section 14530.5 is deleted from the Reference Section as it is duplicative of Section 14530.5 within the Authority Section.

§ 2310. REPORTING.

Subsection 2310(a): This subsection is amended to delete from regulatory text "DR 3 (7/07)," a Division form number. (See Subsection 2305(c), above.)

Subsection 2310(a)(1): This section is amended to delete from regulatory text "DR 3 (7/07)," a Division form number, and add "Distributor Report" in its place. (See Subsection 2305(c), above.) This section also revises the distributor reporting due date to be consistent with statute.

Subsection 2310(a)(2): This subsection is amended to delete from regulatory text "DR 3 (7/07)," a Division form number, and add "Distributor Report" in its place. (See Subsection 2305(c), above.)

Subsection 2310(a)(2)(D): This subsection is amended to delete "and total empty weight" because

this information is not needed in the Distributor Reports.

Subsection 2310(a)(2)(E): This subsection is deleted because it is redundant with information reported in subsection 2310(a)(2)(D).

Subsection 2310(a)(2)(F): This subsection is renumbered to Subsection 2310(a)(2)(E) because the original Subsection 2310(a)(2)(E) has been deleted.

Subsection 2310(a)(2)(G): This subsection is renumbered to Subsection 2310(a)(2)(F) because the original Subsection 2310(a)(2)(E) has been deleted.

Subsection 2310(a)(2)(H): This subsection is renumbered to Subsection 2310(a)(2)(G) because the original Subsection 2310(a)(2)(E) has been deleted.

Section 2310 Reference: Sections 14501 and 14505 are added to the Reference Section. Section 14501 provides legislative intent to ensure all beverage containers redeemed shall be recycled; and Section 14505 provides the definition of beverage container, both of which are relevant to Section 2310, and give authority to the Division to implement this regulation.

Section 14530.5 is deleted from the Reference Section as it is duplicative of Section 14530.5 within the Authority Section.

§ 2320. PAYMENTS.

Subsection 2320(g): This subsection is amended to delete the phrase “but not later than the last day of the third month following the sales or transfers” to make the regulation text consistent with statute.

Section 2320 Reference: Sections 14505, 14523, and 14560 are added to the Reference Section. Section 14505 provides the definition of beverage container; Section 14523 provides the definition of redemption payment; and Section 14560 provides the distributor’s payment requirements, all of which are relevant to Section 2320, and give authority to the Division to implement this regulation.

INFORMATION IS AVAILABLE UPON REQUEST

Copies of the text, the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request and at our web site: www.calrecycle.ca.gov. The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 “K” Street, 14th Floor, Sacramento, California. Please contact the agency contact person, Sharon Siozon, at (916) 322-1760 or at DORRegulations@calrecycle.ca.gov. General or substance questions regarding this file may also be directed to Sharon Siozon. The backup agency contact person for this rulemaking file is Tina Poole, who may be con-

tacted at (916) 323-1833. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on August 15, 2011. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Sharon Siozon, Beverage Manufacturer and Distributor Forms and Registration Proposed Permanent Regulations, Department of Resources Recycling and Recovery, Division of Recycling, 801 “K” St., MS 14-35, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: DORRegulations@calrecycle.ca.gov or faxed to (916) 552-4995.

PUBLIC HEARING

A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with the changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of littered beverage containers in the State. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

The Division initiated the Division of Recycling Integrated Information System (DORIIS) project in June 2007. DORIIS is a free internet-based tool for the recycling community that is designed to improve business processes, eliminate duplicative data entry, and provide program participants with timely and accurate information, as well as improved data analysis and reporting. DORIIS allows participants to report electronically, and will allow them to receive or make payments electronically. The Division will continue to allow program participants to submit paper copies of all required documents and to send payments or receive payments by mail.

Beverage manufacturers and distributors are required to report and pay the appropriate processing fees and redemption payments to the Division, as specified. In order to determine the entities responsible for payment of these fees and create accounts for payment collection, it is necessary for these entities to register with the Division prior to selling specified products and making payments on those products.

These regulations clarify what information is necessary for the Division to register manufacturers and distributors to establish accounts for accounting purposes and maintain contact information to meet statutory and regulatory requirements for reporting and payments. Additionally, if a distributor is paying for someone else, the Division must know who is making payments for whom.

Definitions have also been added to provide clarification for statutory references to the terms “transfer” and “vegetable juice” as applied by the Division.

As a result of DORIIS, and as a result of necessity, the Division has identified several changes that will facilitate the registration, recordkeeping, reporting, and payment processes for distributors and beverage manufacturers and clarify through definitions the general application of terms established in statute. These include 1) Provide that “transfer” includes beverage containers given as a donation, promotional give-away, or as a sample; 2) Provide that “vegetable juice” means one hundred percent juice; 3) Specify that labeling approval is required prior to the offer for sale, sale, or transfer of the beverage container; 4) Require proposed sample la-

bels; 5) Require copies of agreements between distributors and those who have agreed to pay/report on their behalf; 6) Require a registration process that contains information requirements; 7) Remove the images of the “Beverage Manufacturer Report” and the “Distributor Report” hard copy forms, and their form numbers, from regulations; and 8) Require annual listings of entities paying/reporting on behalf of the beverage manufacturer or distributor.

AUTHORITY

These regulations are submitted pursuant to the Department’s authority under Public Resources Code Sections 14530.5(b) and 14536.

REFERENCE

Public Resources Code Sections 14500, 14501, 14501(f), 14501.5, 14503, 14503.6, 14504, 14505, 14506, 14506.5, 14509.5(b), 14511, 14511.7, 14512, 14512.5, 14513, 14514.4.1, 14514.7, 14517, 14518, 14518.5, 14519.5, 14520, 14520.5, 14520.6, 14522.5, 14523, 14524, 14525.5.1, 14526, 14530, 14530.2, 14536(a), 14537, 14538, 14539, 14550, 14550(b), 14550(c), 14552, 14560, 14561, 14571.2, 14571.8(b), 14572, 14572.5, 14573, 14573.5, 14573.51, 14574, 14575, 14575(a), 14575(b), 14575(g), 14575(g)(1), 14575(g)(3)(B), and 14575(j)(2).

DISCLOSURES REGARDING THE PROPOSED ACTION

PLAIN ENGLISH REQUIREMENT

The Department staff prepared the proposed regulation changes pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and are written to be easily understood by the parties that will use them.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

MANDATE ON STATE AGENCIES, LOCAL AGENCIES OR SCHOOL DISTRICTS

Department staff has determined that the proposed regulations do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to

any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630; 4) other nondiscretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

FINDINGS ON NECESSITY OF REPORTS

Department staff has found that the requirements for specific reports are necessary to allow program participants to report electronically or to submit paper copies of all required documents.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These proposed regulations will serve to clarify and make specific existing statutory requirements.

EFFECT ON HOUSING COSTS

The Department has determined that the proposed regulations will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

Department staff have made an initial determination that the proposed regulation changes would not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with other states.

EFFECTS ON SMALL BUSINESSES

The Department has determined that the adoption of these proposed regulations may affect small businesses. The Department has determined that these regulations will have no significant impact on small businesses because small businesses are not required to submit documents to the Department electronically. These proposed regulations do not mandate actions upon private persons or businesses.

EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA

The Department has determined that the adoption of these regulations will not:

Create or eliminate jobs within California;
Create new nor eliminate existing businesses within California;
Expand businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Resources Recycling and Recovery website at: www.calrecycle.ca.gov.

TITLE 15. BOARD OF PAROLE HEARINGS

REVISED NOTICE OF PROPOSED RULEMAKING

Title 15. CRIME PREVENTION AND CORRECTIONS Division 2. BOARD OF PAROLE TERMS CHAPTER 3. PAROLE RELEASE ARTICLE 2. INFORMATION CONSIDERED

New Section 2240
Psychological Risk Assessments

NOTICE IS HEREBY GIVEN that the Board of Parole Hearings (Board) proposes to adopt California

Code of Regulations (CCR), title 15, section 2240, regarding Psychological Risk Assessments for Life Inmates. (Original 45-day notice published December 17, 2010, Register 2010, No. Z-2010-1206-01)

NO PUBLIC HEARING SCHEDULED

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

AUTHORITY AND REFERENCE

Government Code section 12838.4 and Penal Code sections 3052, and 5076.2 authorize the Board to adopt the proposed regulations. The new section implements, interprets and makes specific the Board's existing guidelines for the preparation of Psychological Risk Assessments for parole consideration hearings held pursuant to Penal Code Section 3041, 3041.5 and 5068; and California Code of Regulations, Title 15, Sections 2281, 2282 and 2402.

WRITTEN PUBLIC COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the revised proposed regulations to the Board. **THE WRITTEN COMMENT PERIOD ON THIS REVISED PROPOSED REGULATORY ACTION WILL COMMENCE ON JULY 1, 2011, AND WILL CLOSE AT 5:00 P.M. ON JULY 15, 2011.** In order for the comments to be considered by the Board, they must be submitted in writing to the Board's Contact Person identified in this Notice no later than the close of the comment period.

CONTACT PERSON

Please direct requests for copies of the Revised Initial Statement of Reasons and the Revised Notice of Proposed Rulemaking, or other information upon which the rulemaking is based to:

Anne Cervantes, Regulations Coordinator
Board of Parole Hearings
PO Box 4036
Sacramento, CA 95812-4036
Telephone: (916) 445-5277
Facsimile: (916) 322-3475
E-mail: cdcrbphregulations@cdcr.ca.gov

Note: Substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Anne Cervantes, Regulations Coordinator (916) 445-5277. If Anne Cervantes is unavailable, please contact Staff Counsel, Phil Reiser at (916) 445-5277.

In any such inquiries, please identify the action by using the Board's regulation control number RN 10-01.

Government Code section 12838.4 vests the Board of Parole Hearings (Board) with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Prison Terms and Narcotic Addict Evaluation Authority, which no longer exist.

Penal Code section 3052 vests with the Board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Penal Code section 5076.2 requires the Board promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

The new section codifies the Board's existing guidelines for the preparation of Psychological Risk Assessments for parole consideration hearings held pursuant to Penal Code Section 3041 and 3041.5.

This action provides the following:

- Subsection 2240(a) identifies when an inmate will receive a Comprehensive Risk Assessment. It also makes clear that psychological reports prepared before January 1, 2009 are valid for three years, or until used at a hearing that was conducted and completed after January 1, 2009, whichever is earlier.
- Subsection 2240(b) provides that a Comprehensive Risk Assessment will be completed every five years and defines what is generally contained in the report. It contemplates that risk assessment instruments may be used to evaluate an inmate's potential for future violence.
- Subsection 2240(c) provides when a Subsequent Risk Assessment will be prepared and defines what is generally contained in the report. The Subsequent Risk Assessment will predominantly focus on dynamic factors and it will not contain an opinion of the inmate's potential for future violence.
- Subsection 2240(d) provides that the CDCR's inmate appeal process does not apply to the Board's psychological evaluations. The report and its conclusions may be challenged at the hearing. The hearing panel will determine what evidentiary weight to give the report.
- Subsection 2240(e) describes how substantial factual errors in a psychological report will be handled if they are identified by the hearing panel.

- Subsection 2240(f) describes how administrative factual errors in a psychological report will be handled if they are identified by the hearing panel.
- Subsection 2240(g) provides that life inmates who don't reside in California may not receive a risk assessment or other psychological evaluation due to other states' licensing requirements for psychologists and variations in confidentiality laws from state-to-state.
- Subsection 2240(h) specifies that this regulation will not apply to medical parole hearings or applications for sentence recall.

DISCLOSURES REGARDING THE PROPOSED ACTION

Local Mandates: The Board has determined that the proposed action imposes no mandate upon local agencies or school districts.

Fiscal Impact Statement: The Board has made the following initial determinations:

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: **None.**
- Cost or savings to any state agency: **None.**
- Other non-discretionary cost or savings imposed on local agencies: **None.**
- Cost or savings in federal funding to the state: **None.**

Significant Statewide Adverse Economic Impact on Business: The Board has determined that there is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Effects on Job and/or Business Creation, Elimination or Expansion: The Board has determined that adoption of this regulation will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on Housing Costs: The Board has made an initial determination that the proposed action will have no significant effect on housing costs.

Small Business Determination: The Board has determined that the proposed regulation does not have a significant adverse economic impact on small business

because small businesses are not affected by the internal management of State prisons.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested parties are accordingly invited to present statements or arguments with respect to any alternatives to the proposed changes during the public comment period.

AVAILABILITY OF REVISED PROPOSED TEXT AND REVISED INITIAL STATEMENT OF REASONS

The Board will make the rulemaking file available to the public throughout the rulemaking process at its offices located at 1515 K Street, Suite 600, Sacramento, California. As of the date this Notice is published in the Office of Administrative Law's Notice Register, the rulemaking file consists of this Notice, Form 400 (Notice of Submission of Regulation), the Revised Initial Statement of Reasons and Revised Notice of Proposed Rulemaking. Copies of these documents may be obtained by contacting the Board's Contact Person at the address or phone number listed above or by visiting the Board's website at: http://www.cdcr.ca.gov/BOPH/reg_revisions.html.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 calendar days before the proposed action is adopted by the agency, and the agency shall mail to all of the interested persons a notice identifying the added document and stating the place and business hours that the document is available for public inspection. Please send requests for copies of any modified regulation text to the attention of the Contact Person identified in this Notice or by visiting the Board's website at http://www.cdcr.ca.gov/BOPH/reg_revisions.html. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained from the Board's Contact Person identified in this Notice or by visiting the Board's website at:

http://www.cdcr.ca.gov/BOPH/reg_revisions.html

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF PROPOSED REGULATIONS

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to adopt Sections 3504.1 and 3504.2 in the California Code of Regulations (CCR), Title 15 concerning Parole Assessment, Highest Control or Risk Classification.

PUBLIC HEARING

Date and Time: August 23, 2011 — 9:00 a.m. to 10:00 a.m.

Place: Department of Corrections and
Rehabilitation
Kern Room
1515 S Street— North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close August 23, at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**S. Pollock
Regulation and Policy Management Branch
Telephone (916) 445-2266**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Mark Delfin
Division of Adult Parole Operations
Telephone (916) 327-8282**

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500-17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses,

including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small businesses because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

This action provides the following:

- Adopts into the California Code of Regulations, Title 15, Division 3, new sections 3504.1 and 3504.2, which define persons that are to be determined as a High Control or Risk Classification, and the reporting requirements for the inmates/parolees that meet this determination.
- Brings the Department into regulatory compliance with Penal Code Section 3060.7 which requires that persons determined to be within the Highest Control or Risk Classification shall be required to report to their assigned parole officer within two days of release from state prison.
- Establishes the recognized State legal holidays, for the purpose of providing a clear understanding, to ensure compliance, that an inmate shall not be released from a State facility on a Friday or the day

before a legal holiday, so that they may meet the 48 hour requirement to report to their assigned parole unit.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF PROPOSED REGULATIONS

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by Penal Code Sections 5058 and 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to adopt Sections 3571, 3582, 3590, 3590.1, 3590.2, and 3590.3, and amend Section 3000 in the California Code of Regulations (CCR), Title 15 concerning residence restrictions imposed upon paroled sex offenders.

PUBLIC HEARING

Date and Time: **August 23, 2011 — 10:30 a.m. to 11:30 a.m.**

Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street — North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close, **August 23, 2011, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Josh Jugum
Regulation and Policy Management Branch
Telephone (916) 445-2228

Questions regarding the substance of the proposed regulatory action should be directed to:

William Dunkak
Division of Adult Parole Operations
Telephone (916) 327-1136

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500-17630.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district that is required to be reimbursed: *None.*
- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide

adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small businesses because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations pursuant to GC Section 11340.

This action provides the following:

- Implements on a statewide basis provisions for the supervision while on parole of sex offenders, sex offenders designated as "high risk," and sex offenders who are considered transient.

- Adopts Sections 3571, 3582, 3590, 3590.1, 3590.2, and 3590.3, and amends Section 3000 in the California Code of Regulations, Title 15, concerning residence restrictions imposed upon, and parole supervision of, sex offenders while on parole.
- Establishes CDCR Form 1650–D (Rev 7/10) — Record of Supervision in the regulations. This form has been incorporated by reference into the regulations and a copy has been made available for public review.
- Implements regulations to enforce the paroled sex offender residence restrictions established by “Jessica’s Law” which prohibit certain sex offenders from establishing residences within specified distances of schools and parks.
- Makes specific the definitions of terms used in enabling statutes.
- Defines the responsibilities of parole agents responsible for the supervision of paroled sex offenders.
- Establishes processes for the verification and approval of sex offender residence addresses to ensure compliance with residence restrictions.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Emergency Rulemaking
Title 17, California Code of Regulations

SUBJECT: School Immunization Requirements:
Grades 7 through 12:
FY 2011 – 2012, DPH–10–004E

The California Department of Public Health (Department) has adopted the regulations described in this notice on an emergency basis, and they are now in effect.

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct written public proceedings, during which time any interested person or such person’s duly authorized representative may submit statements, arguments, or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Health and Safety Code (HSC), Section 131200, authorizes the Department to adopt and enforce regulations for the execution of its duties. HSC, Section

120330, authorizes the Department to promulgate regulations, in consultation with the California Department of Education (CDE), to carry out Chapter 1, Educational and Child Care Facility Immunization Requirements (commencing with Section 120325 but excluding Section 120380).

The legislative intent as stated in HSC, Sections 120325 and 120335, is to achieve total immunization of appropriate age groups against specific diseases and any other disease deemed appropriate by the Department, taking into consideration national recommendations. HSC, Sections 120325 through 120375, require pupils to provide proof of certain immunizations in order to attend public and private elementary and secondary schools, child care centers, family day care homes, nursery schools, day nurseries and developmental centers. HSC, Sections 120325(c), 120365, and 120370, allow for medical or personal beliefs exemptions and require that the governing authority report on immunization status of new entrants.

California experienced a pertussis (whooping cough) epidemic in 2010. Childhood immunization against pertussis does not provide lasting immunity needed to control the disease. Pertussis remains widespread in the United States despite high levels of immunization in early childhood. Until 2005, there was no licensed pertussis vaccine for persons age seven years or older. Based on recent survey data, many adolescents and adults have not received a recommended pertussis booster. This pool of susceptible persons is likely a major contributor to the spread of pertussis and prolongation of the epidemic throughout the state. Previously, state law prohibited the requirement of pertussis immunization for children seven years of age or older. Because of the urgency of the epidemic, the Legislature enacted AB 354 (Arambula, Chapter 434, Statutes of 2010) and removed the age restriction, requiring full immunization against pertussis for admission or advancement to the 7th through 12th grades. AB 354 also eliminated the requirement for hepatitis B vaccine for admission or advancement to the 7th grade.

These emergency amendments do the following:

Amend Section 6020, Required Immunizations, for consistency with HSC, Section 120335 to remove the requirement for hepatitis B vaccine for admission or advancement to the 7th grade, and specify the requirement for full immunization against pertussis and the immunizing agent, pertussis vaccine (Tdap), to meet the one-year requirement for 7th through 12th grades beginning July 1, 2011, through June 30, 2012.

Amend Section 6035, Conditional Admission, to be consistent with HSC, Section 120335 by specifying the requirement for full immunization against pertussis for admission or advancement to the 7th through 12th grades.

Amend Section 6051, Unconditional Admission with Permanent Medical Exemption or Personal Beliefs Exemption, to require a separate PBE for the pertussis booster, and incorporate by reference the optional form to document personal beliefs exemption (PBE) for Tdap, Personal Beliefs Exemption [CDPH 8261 (03/11)] and to reformat into two subparagraphs to delineate between medical and personal beliefs exemptions.

Amend Section 6065, Documentary Proof, to require documentary proof of immunization for the one-year pertussis immunization requirement and to delete an obsolete immunization requirement.

Amend Section 6070, School/Child Care Facility Immunization Record, to add a recording requirement for Tdap dose given during the month of the 7th birthday and to incorporate by reference the form Tdap (Pertussis Booster) Requirement [PM 286 S (01/11)], for the governing authority to record the pertussis immunization.

Amend Section 6075, Reporting, to incorporate by reference the form Pertussis (Tdap) Assessment of 7–12th Grade Students [(CDPH 8260 (01/11))] for the governing authority to report pertussis immunization status for 7th through 12th grades, for the year beginning July 1, 2011 through June 30, 2012.

This emergency action amends CCR, Title 17, Sections 6020, 6035, 6051, 6065, 6070, and 6075 to remove a requirement for the hepatitis B vaccine, define the term Tdap, define age and dose requirements for school-age children receiving the pertussis vaccine, and specify the manner by which schools shall record and report pertussis immunization status. The following newly adopted forms are incorporated by reference:

- Tdap (Pertussis Booster) Requirement (PM 286 S, 01/11)
- Personal Beliefs Exemption (CDPH 8261, 03/11)
- Pertussis (Tdap) Assessment of 7–12th Grade Students (CDPH 8260, 01/11)

AUTHORITY

Sections 120330, 120335, and 131200, Health and Safety Code.

REFERENCE

Sections 120325, 120335, 120370, and 120375, Health and Safety Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be

received by the Office of Regulations by 5 p.m. on August 15, 2011, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier “DPH–10–004E” in the subject line to facilitate timely identification and review of the comment; or
2. By fax transmission: (916) 440–5747; or
3. By mail to: Office of Regulations, California Department of Public Health, MS 0507, P.O. Box 997377, Sacramento, CA 95899–7377; or hand-delivered to: 1616 Capitol Avenue, Sacramento, CA, 95814. It is requested, but not required, that written comments sent by mail or hand-delivered be submitted in triplicate.

All comments, including email or fax transmissions, should include the author’s name and U.S. Postal Service mailing address in order for the Department to provide copies of any notice for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Alana McKinzie of the Center for Infectious Diseases, at (916) 449–5197.

All other inquiries concerning the action described in this notice may be directed to Miko Sawamura, Office of Regulations, at (916) 440–7733, or to the designated backup contact person, Coleen Keelan, at (916) 440–7439.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH–10–004E.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, at the ad-

dress previously noted, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 440-7439 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

A. Fiscal Effect on Local Government:

Monies allocated annually from federal 317 funding to purchase vaccines for the local health departments have been redirected from non-urgent vaccines to cover the additional vaccines as mandated.

Local health departments that immunize low-income children, who are not enrolled in Medi-Cal or Child Health and Disability Prevention programs, will not receive compensation for administering the vaccine similar to their subsidized counterparts. Depending on the actual number of children immunized per local health department, the maximum state-wide impact is estimated to be \$765,000.

B. Fiscal Effect on State Government:

Department of Health Care Services and the Managed Risk Medical Insurance Board

The one-year vaccine requirement expenditures will be incurred in fiscal year (FY) 2011-12. It is anticipated that in FY 2011-12, Medi-Cal and Healthy Families

costs will total \$4,909,500 (General Fund \$1,826,325; Federal Fund \$3,083,175).

California Department of Education Costs

The estimated FY 2011-12 costs for the CDE associated with the implementation of this immunization requirement is \$27,200 (.2 FTE school nurse consultant at \$26,700; 8 hours analyst time at \$500), these costs will be absorbed by CDE.

State Controller's Office Costs

In the past, public school districts have claimed funds from the State Controller's Office for implementing the immunization requirements for each pupil entering a California school for the first time or being assessed at a newly-required periodic review date. This proposed regulation change to require pertussis immunization for pupils being admitted or advanced to the 7th through 12th grades may be submitted by public schools for mandated cost reimbursement by the State Controller's Office.

C. Fiscal Effect on Federal Funding of State Programs:

The one-year vaccine requirement expenditures will be incurred in FY 2011-12. It is estimated that in FY 2011-12, Medi-Cal and Healthy Families federal costs will total \$3,083,175 and federal 317 grant costs will total \$1,212,950 for total federal funding expenditures of \$4,296,125. Funding for the Vaccines for Children (VFC) program is provided by the federal government and distribution to providers is managed by the state. The VFC program is an entitlement program and funding is not driven by a specific item in the federal budget but rather provider orders and vaccine need.

D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

Private Persons: The cost for private pay individuals is estimated to be \$37.55 for the cost of the vaccine, plus a manufacturer's mark-up and the \$9.00 administration fee per injection. The number of children in this category is unknown, but the Department considers this population to be negligible. Some children with private insurance, entering or advancing into 7th through 12th grades will not have had the required pertussis immunization. There are approximately 1,000,000 unimmunized children in 7th through 12th grades. Of this population, it is estimated that 57% are covered by private insurance and may incur an estimated \$15 co-pay for the office visit for their vaccination, others may have no costs. Thus, the total cost to all persons with third party or private insurance, as a whole, is estimated to be no more than \$8,550,000.

Small Businesses: Private schools are prohibited from submitting requests for reimbursement of state mandated costs; however, they will need to assess their students' records for receipt of the additional required pertussis dose. It is estimated that there are approximately 228,833 private school students in the 7th through 12th grades. The cost to assess each student record is approximately \$1/pupil. Therefore, the maximum total impact to private schools, as a whole, is estimated to be \$228,833.

E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS

The Department has determined that the regulations would impose a mandate on local agencies or school districts. There may be costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code. These regulations do impose a mandate on schools. If the Commission on State Mandates determines that this is a reimbursable state-mandated cost, the schools may be reimbursed for up to \$1 per pupil record assessed.

The Department has made an initial determination that the regulations would not have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

The proposed emergency regulation imposes a reporting requirement for schools with 7th through 12th grades to provide data on pertussis immunization to the California Department of Public Health. The Department finds that it is necessary for the protection of the health, safety, or welfare of the people of the State of California that the regulation applies to businesses.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no

reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8. For individuals with disabilities, should a public hearing be scheduled, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, audiocassette, or computer disk. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

To request such services or copies of materials in an alternate format, please write to Coleen Keelan, Office of Regulations, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, or call (916) 440-7439, or use the California Relay Service by dialing 711.

GENERAL PUBLIC INTEREST

TITLE 2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or CEIR has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

DEPARTMENT OF PUBLIC HEALTH

NOTICE IS HEREBY GIVEN that the California Department of Public Health (CDPH), Center for Health Care Quality, Licensing & Certification Program (hereinafter referred to as the "Department"), pursuant to Government Code Section 11346.45, is inviting interested parties to participate in a public discussion and submit statements and comments regarding the substance of regulations governing Surgical Site Infections Reporting Requirements described in Health & Safety Code Sections 1288.55 prior to the start of the formal rulemaking process.

Any person interested may present statements orally or in writing relevant to these issues at a pre-notice meeting to be held at the East End Complex Auditorium, 1500 Capitol Avenue, Sacramento, CA 95814 at 8:30 a.m., Tuesday, August 16.

Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the Department at its office not later than 5:00 p.m. on Monday, August 15, or must be received at the meeting.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Edwin Hoffmark at 1-800-236-9747, or e-mail RNUnit@cdph.ca.gov, or send a written request to the Department at P.O. Box 997377; MS 3201, Sacramento, CA 95899-7337. Providing your request at least seven (7) business days before the meeting will help to ensure availability of the requested accommodation.

Contact Persons:

Jennifer Hoke, Chief of Certification & Regulations
and/or
Edwin Hoffmark, RN Unit Chief

CDPH, Licensing & Certification
P.O. Box 997377; MS 3201
Sacramento, CA 95899-7377
Fax: (916) 324-4820
Email: RNUnit@cdph.ca.gov
Phone: 1-800-236-9747

OAL REGULATORY DETERMINATIONS

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATION (Summary Disposition)

(Pursuant to Government Code Section 11340.5
and Title 1, section 270, of the
California Code of Regulations)

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: June 16, 2011

To: Gregory Mitchell
 From: Chapter Two Compliance Unit
 Subject: **2011 OAL DETERMINATION NO. 9(S)**
(CTU2011-0421-01)
 (Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation Operational Procedure #72-23, titled Comprehensive Accommodation Chrono

On April 21, 2011, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether Operational Procedure #72-23, titled "Comprehensive Accommodation Chrono" (OP #72-23) constitutes an underground regulation. OP #72-23 defines the process for documenting temporary and permanent health accommodation information in a systematic and uniform manner. OP #72-23 is dated October 2011 and issued by the Correctional Training Facility at Soledad and is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

¹ "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² Such a rule is called an "underground regulation" as defined in California Code of Regulations, title 1, section 250, subsection (a):

"Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

(c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a "local rule" adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, OP #72-23 issued by the Correctional Training Facility at Soledad applies solely to the inmates of the Correctional Training Facility. Inmates housed at other institutions are governed by those other institutions' criteria for documenting health accommodation information. Therefore, the rule is a "local rule" and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.³

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

³ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule. [Emphasis added.]

/s/

Debra M. Cornez
Assistant Chief Counsel/
Acting Director

/s/

Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: June 16, 2011

To: Anthony Little

From: Chapter Two Compliance Unit

Subject: **2011 OAL DETERMINATION NO. 10(S)**
(CTU2011-0519-01)

(Summary Disposition issued pursuant to
Gov. Code, sec. 11340.5; Cal. Code Regs., tit.
1, sec. 270(f))

Petition challenging as an underground regula-
tion Memorandum dated March 29, 2007,
titled "Electrical Appliance Restrictions/
Limits"

On May 19, 2011, you submitted a petition to the Of-
fice of Administrative Law (OAL) asking for a deter-
mination as to whether a memorandum dated March 29,
2007, titled "Electrical Appliance Restrictions/Limits"
(memorandum) constitutes an underground regulation.
The memorandum was issued by the warden at the
California Men's Colony and is attached hereto as Ex-
hibit A.

In issuing a determination, OAL renders an opinion
only as to whether a challenged rule is a "regulation" as
defined in Government Code section 11342.600,¹
which should have been, but was not adopted pursuant
to the Administrative Procedure Act (APA).² Nothing

¹ "Regulation" means every rule, regulation, order, or standard of
general application or the amendment, supplement, or revision of
any rule, regulation, order, or standard adopted by any state
agency to implement, interpret, or make specific the law enforced
or administered by it, or to govern its procedure.

² Such a rule is called an "underground regulation" as defined in
California Code of Regulations, title 1, section 250, subsection
(a):

"Underground regulation" means any guideline, criterion, bul-
letin, manual, instruction, order, standard of general applica-
tion, or other rule, including a rule governing a state agency
procedure, that is a regulation as defined in section 11342.600
of the Government Code, but has not been adopted as a regula-
tion and filed with the Secretary of State pursuant to the APA
and is not subject to an express statutory exemption from adop-
tion pursuant to the APA.

in this analysis evaluates the advisability or the wisdom
of the underlying action or enactment. OAL has neither
the legal authority nor the technical expertise to evalu-
ate the underlying policy issues involved in the subject
of this determination.

Generally, a rule which meets the definition of a "reg-
ulation" in Government Code section 11342.600 is re-
quired to be adopted pursuant to the APA. In some
cases, however, the Legislature has chosen to establish
exemptions from the requirements of the APA. Penal
Code section 5058, subdivision (c), establishes exemp-
tions expressly for the California Department of
Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be
"regulations" as defined in Section 11342.600 of
the Government Code:

(1) Rules issued by the director applying
solely to a particular prison or other
correctional facility. . . .

This exemption is called the "local rule" exemption.
It applies only when a rule is established for a single
correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court
discussed the nature of a "local rule" adopted by the
warden for the Richard J. Donovan Correctional Facil-
ity (Donovan) which dealt with correspondence be-
tween inmates at Donovan:

The Donovan inter-institutional correspondence
policy applies solely to correspondence entering
or leaving Donovan. It applies to Donovan
inmates in all instances.

. . .

The Donovan policy is not a rule of general
application. It applies solely to Donovan and,
under Penal Code section 5058, subdivision
(c)(1), is not subject to APA requirements.

Similarly, the rule challenged by your petition was is-
sued by John Marshall, the warden of the California
Men's Colony and applies solely to the inmates of the
California Men's Colony. Inmates housed at other insti-
tutions are governed by those other institutions' criteria
for electrical appliances. Therefore, the rule is a "local
rule" and is exempt from compliance with the APA pur-
suant to Penal Code section 5058(c)(1). It is not an un-
derground regulation.³

³ The rule challenged by your petition is the proper subject of a
summary disposition letter pursuant to title 1, section 270 of the
California Code of Regulations. Subdivision (f) of section 270
provides:

(f)(1) If facts presented in the petition or obtained by OAL dur-
ing its review pursuant to subsection (b) demonstrate to OAL
that the rule challenged by the petition is not an underground
regulation, OAL may issue a summary disposition letter stat-
ing that conclusion. A summary disposition letter may not be
issued to conclude that a challenged rule is an underground
regulation.

(Footnote 3 continued on next page)

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/
Debra M. Cornez
Assistant Chief Counsel/
Acting Director

/s/
Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood

(Footnote 3 continued)

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

- (A) The challenged rule has been superseded.
- (B) The challenged rule is contained in a California statute.
- (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
- (D) The challenged rule has expired by its own terms.
- (E) **An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** [Emphasis added.]

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2011-0509-01
AIR RESOURCES BOARD
Energy Efficiency & Co-Benefits Large Industrial Facilities

This regulatory action requires that specified stationary sources, petroleum refineries and cement plants that emit greenhouse gas (GHG) in California must provide information on the energy efficiency improvement opportunities that are available and must quantify the associated emission reductions for GHG, criteria pollutants, and toxic air contaminants.

Title 17
California Code of Regulations
ADOPT: 95600, 95601, 95602, 95603, 95604, 95605, 95606, 95607, 95608, 95609, 95610, 95611, 95612
Filed 06/16/2011
Effective 07/16/2011
Agency Contact: Trini Balcazar (916) 445-9564

File# 2011-0506-02
AIR RESOURCES BOARD
Commercial Harbor Craft 2010

On June 24, 2010, the Air Resources Board (ARB) adopted Resolution 10-26 amending section 2299.5 of title 13 and section 93118.5 of title 17 of the California Code of Regulations. These amendments further reduce emissions of diesel particulate matter and oxides of nitrogen from auxiliary and propulsion diesel engines on commercial harbor craft, including crew and supply, barge, and dredge vessels, operating in regulated California waters. In addition, these amendments allow certified off-road or nonroad diesel engines to be used as auxiliary engines, add recordkeeping requirements for "swing engines," described special circumstances in which non-CARB diesel fuel may be used, and alter various compliance schedules, exemptions, and emission control deadlines.

Title 13, 17
California Code of Regulations
AMEND: Title 13: 2299.5, and Title 17: 93118.5
Filed 06/20/2011
Effective 07/20/2011
Agency Contact: Amy Whiting (916) 322-6533

File# 2011-0520-04
AIR RESOURCES BOARD
SF6 Gas Insulated Switchgear 2010

The Air Resources Board submitted this action to resolve the disapproval of the proposed adoption of title 17, section 95356 in OAL File No. 2010-1221-03S. Section 95356 establishes the annual requirement for reporting reductions in sulfur hexafluoride (SF6) emissions from gas insulated switchgear (GIS) used in electric power systems for owners of GIS equipment.

Title 17
California Code of Regulations
ADOPT: 95356
Filed 06/17/2011
Effective 06/17/2011
Agency Contact: Amy Whiting (916) 322-6533

File# 2011-0503-09
ATHLETIC COMMISSION
Contracts, Courtesy Passes, Ringside Physicians, Time for Exam

This action updates the regulations to clarify the Commission's understanding that boxing promoters are subject to the regulations applicable to managers and the obligation of participants to file all contracts with the Commission. It also adopts a rule to distinguish between a technical knockout and a technical draw when a bout is terminated before the fourth round due to the injury of a fighter.

Title 4
California Code of Regulations
ADOPT: 340 AMEND: 221, 222, 226, 230, 288, 300
REPEAL: 262
Filed 06/15/2011
Effective 07/15/2011
Agency Contact: Dale Chessey (916) 263-2195

File# 2011-0531-01
BOARD OF EQUALIZATION
Technology Transfer Agreements

This action deletes from CCR, title 18, section 1507, subdivision (a), a provision that limits availability of the exemption of technology transfer agreements from sales and use tax when the transaction is a sale or lease of prewritten software. The provision that is being deleted by this action is an exclusion from the definition of the term "technology transfer agreement."

Title 18
California Code of Regulations
AMEND: 1507
Filed 06/22/2011
Agency Contact:
Richard E. Bennion (916) 445-2130

File# 2011-0621-01
BOARD OF GOVERNORS, CALIFORNIA
COMMUNITY COLLEGES
Allocation Funding for New Colleges

This file submitted to OAL for print only purposes deals with basic allocation funding for new colleges.

Title 5
California Code of Regulations
AMEND: 58771
Filed 06/21/2011
Effective 07/21/2011
Agency Contact: Jonathan Lee (916) 445-6272

File# 2011-0510-03
CALIFORNIA BAY-DELTA AUTHORITY
Conflict-of-Interest Code

This is a Conflict-of-Interest Code filing that has been approved by the Fair Political Practices Commis-

sion and is being submitted for filing with the Secretary of State and printing only.

Title 2
California Code of Regulations
REPEAL: 59152
Filed 06/21/2011
Effective 06/21/2011
Agency Contact: Lynn Darby (916) 445-5565

File# 2011-0531-02
CALIFORNIA HORSE RACING BOARD
Financial Responsibility

This action makes small changes in the regulation that outlines the types of financial responsibility complaints the Board will consider and attempt to resolve, clarifying the requirement that the matter be directly related to California horse racing operations and adding provisions that allow for complaints submitted by equine medical hospitals, horse auctions, and horse farms and claims of unpaid wages between licensees of the board to be accepted.

Title 4
California Code of Regulations
AMEND: 1876
Filed 06/21/2011
Effective 07/21/2011
Agency Contact: Harold Coburn (916) 263-6397

File# 2011-0506-01
COMMISSION ON TEACHER CREDENTIALING
Special Education Added Authorizations and Speech-Language Pathology Credential

This rulemaking action amends several sections, adopts one section and repeals three sections within Title 5 of the California Code of Regulations. The amendment and adoptions change the title of the Adaptive Physical Education Specialist Credential to the Adaptive Physical Education Specialist Added Authorization. Specific requirements are also listed for this added authorization. This rulemaking also establishes the requirements and authorizations for the Speech-Language Pathology Services Credential.

Title 5
California Code of Regulations
ADOPT: 80048.9, 80048.9.4 AMEND: 80046.1, 80048.5, 80070.1, 80070.2, 80070.3, 80070.4, 80070.5, 80070.6 REPEAL: 80046, 80070.7, 80070.8
Filed 06/20/2011
Effective 07/20/2011
Agency Contact:
Terri H. Fesperman (916) 323-5777

File# 2011-0526-02

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION****Residence Restrictions on Paroled Sex Offenders**

This emergency adoption of regulations as an operational necessity establishes rules regarding the residence restrictions for paroled sex offenders. Specifically, this rulemaking adds necessary definitions of terms, establishes residence restrictions for sex offenders and high risk sex offenders and corresponding parole agent supervision and verification duties, and also establishes certain exceptions which enable sex offenders to enter at certain addresses without being considered to have established a residence at any such address.

Title 15

California Code of Regulations

ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3

AMEND: 3000

Filed 06/15/2011

Effective 06/15/2011

Agency Contact: Josh Jugum (916) 445-2228

File# 2011-0609-01

DEPARTMENT OF FOOD AND AGRICULTURE**European Grapevine Moth Interior Quarantine**

This emergency action amends the recently established European Grapevine Moth (EGVM) Interior Quarantine in Nevada County by adding approximately 73 square miles in the Nevada City area. The proposed amendment merges the new quarantine area with the existing regulated area in the Grass Valley area. The total regulated area in Nevada County will be approximately 176 square miles and the total regulated area in the State will be approximately 2,247 square miles.

Title 3

California Code of Regulations

AMEND: 3437(b)

Filed 06/15/2011

Effective 06/15/2011

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2011-0602-02

DEPARTMENT OF FOOD AND AGRICULTURE**Asian Citrus Psyllid Interior Quarantine**

This certificate of compliance makes permanent the prior emergency amendments to section 3435, subdivision (b) (OAL file no. 2010-1224-01E) that added all of Ventura County to the area quarantined to help prevent the spread of the Asian Citrus Psyllid (ACP), associated bacteria, and Citrus Greening (CG) disease. Additionally it makes permanent the expansion of the quarantine area to add portions of Santa Barbara

County, San Bernardino and Riverside counties. The CG disease kills citrus crops and there is no cure for it. The potential for damage is measured in many millions of dollars. There is a federal quarantine requirement. A California quarantine for affected geographical areas can help avoid the necessity for a statewide quarantine that would otherwise be required under federal law. A statewide quarantine would be far more burdensome.

Title 3

California Code of Regulations

AMEND: 3435(b)

Filed 06/22/2011

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2011-0509-02

DIVISION OF WORKERS COMPENSATION**Workers' Compensation**

This Section 100 action makes nonsubstantive revisions to form "DWC-CA form 10250.1 (Declaration of Readiness to Proceed form) revision dated 7/2010" by adopting and incorporating by reference version 6/2011 of that form.

Title 8

California Code of Regulations

AMEND: 10250.1

Filed 06/20/2011

Agency Contact: James D. Fisher (510) 286-0679

File# 2011-0520-01

FISH AND GAME COMMISSION**Central Valley Salmon Sport Fishing**

The Fish and Game Commission proposed to amend sections 7.00 and 7.50 of title 14 of the California Code of Regulations to allow the limited recreational take of Chinook salmon in the Sacramento, Feather, and American rivers.

Title 14

California Code of Regulations

AMEND: 7.00, 7.50

Filed 06/16/2011

Effective 06/16/2011

Agency Contact: Sheri Tiemann (916) 654-9872

File# 2011-0511-02

FISH AND GAME COMMISSION**Klamath River Sport Fishing**

This regulatory action is the annual revision of regulations limiting the harvest of Klamath River Chinook salmon. The Pacific Fishery Management Council recommends limits for recreational and commercial ocean salmon fishing in the Exclusive Economic Zone (three to 200 miles offshore). The National Marine Fisheries Service implements those recommendations. The Fish

and Game Commission adopts these regulations for the zone inside three miles which are consistent with the federal fishery management goals.

Title 14
California Code of Regulations
AMEND: 7.50
Filed 06/21/2011
Effective 07/21/2011
Agency Contact:
Sherrie Fonbuena (916) 654-9866

File# 2011-0518-01
OFFICE OF THE STATE FIRE MARSHAL
Carbon Monoxide Devices

In this regulatory action, the Office of the State Fire Marshal implements provisions of the Carbon Monoxide Poisoning Prevention Act of 2010 (Statutes of 2010, Chapter 19 (S.B. 183)), by amending its "Construction Materials and Equipment Listing" regulations to include within their scope the approval and listing of carbon monoxide devices.

Title 19
California Code of Regulations
AMEND: 200, 201, 202, 204, 208, 209, 212
Filed 06/21/2011
Effective 06/21/2011
Agency Contact: Diane Arend (916) 324-9592

File# 2011-0510-01
PRISON INDUSTRY AUTHORITY, CALIFORNIA
CALPIA Inmate Appeals/Health or Safety Complaint

The California Prison Industry Authority (CALPIA) submitted this action to clarify when inmate employees are supposed to use the regular appeals process for complaints under regulations by the Department of Corrections and Rehabilitation and when they are supposed to use a health and safety complaint procedure established by CALPIA in this action.

Title 15
California Code of Regulations
ADOPT: 8007, 8008 AMEND: 8000
Filed 06/20/2011
Effective 07/20/2011
Agency Contact:
Ann Cunningham (916) 358-1612

File# 2011-0519-03
STATE WATER RESOURCES CONTROL BOARD
Lake Tahoe TMDL and Implementation Plan

This California Government Code Section 11353 rulemaking action adopts a Total Maximum Daily Load for fine sediment particles, total nitrogen, and total phosphorus for Lake Tahoe, and an implementation

plan, for the purpose of restoring the lake's deep water transparency to the late 1960s level. This restoration is estimated to require a 65, 35, and 10 percent reduction in fine sediment, phosphorus, and nitrogen loads, respectively, and an estimated 65-year implementation period.

California Code of Regulations
ADOPT: 3959.4
Filed 06/21/2011
Effective 07/21/2011
Agency Contact: Richard Booth (530) 542-5574

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN January 26, 2011 TO June 22, 2011

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2
06/21/11 REPEAL: 59152
06/07/11 AMEND: 640
05/12/11 AMEND: 1859.83
05/04/11 ADOPT: 1190, 1190.01, 1190.02, 1190.03, 1190.04, 1190.05 AMEND: 1181.1, 1181.2
04/28/11 AMEND: 18427.1
04/28/11 AMEND: 1859.90.2
04/27/11 AMEND: 1859.76
04/21/11 REPEAL: 18420.5
04/21/11 AMEND: 18465
04/21/11 ADOPT: 1859.90.2 AMEND: 1859.90.2 (renumbered to 1859.90.3), 1859.129, 1859.197
04/11/11 AMEND: 321
04/06/11 AMEND: 59.3
04/05/11 AMEND: 1859.2, 1859.81, 1859.148.2, 1859.166.2
04/01/11 AMEND: 18734
03/30/11 AMEND: 64.5
03/28/11 AMEND: 599.550
03/09/11 ADOPT: 552
03/08/11 ADOPT: 18451 REPEAL: 18451, 18452, 18453
03/07/11 AMEND: 18404.1
03/07/11 AMEND: 18435, 18450.4
03/03/11 AMEND: 1897

02/23/11	AMEND: 18734, 18751	5193, 5194, 5200, 5210, 5211, 5212,
02/17/11	AMEND: 18116	5220, 5230, 5231, 5232, 5240, 5250,
02/17/11	AMEND: 18239	5260, 5265, 5266, 5267, 5268, 5269,
02/17/11	ADOPT: 18401.1, 18435.5	5270, 5275, 5280, 5281, 5282, 5283,
02/15/11	AMEND: 599.500, 599.501	5290, 5291, 5300, 5310, 5311, 5312,
01/28/11	ADOPT: 559	5313, 5314, 5315, 5320, 5321, 5330,
01/26/11	ADOPT: Headings for Subchapter 1.3, Article 1, Article 2, Article 3, Article 4 AMEND: Heading for Subchapter 1.3 — Article 25	5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, 5550, 5560, 5570, 5571, 5572, 5573, 5580, 5590
Title 3		
06/22/11	AMEND: 3435(b)	
06/15/11	AMEND: 3437(b)	
05/31/11	AMEND: 3437(b)	
05/11/11	ADOPT: 6446, 6446.1 AMEND: 6400, 6452.4, 6624, 6860	03/17/11 AMEND: 202, 210, 214, 246, 247, 248, 249, 252, 254, 264, 266, 267, 304, 332, 334, 335, 364, 385, 510, 533, 541, 545, 609
04/20/11	AMEND: 3434	
04/14/11	ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407	03/07/11 ADOPT: 8035.5
04/07/11	AMEND: 6445.5, 6448.1, 6449.1, 6450.1, 6452.2, 6452.3, 6452.4, 6536, 6626	03/07/11 ADOPT: 8078.2 AMEND: 8070, 8072
03/18/11	AMEND: 3434(b) and (c)	03/03/11 REPEAL: 4002.2(a)
03/18/11	AMEND: 3434(b)	02/16/11 AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162, 10164
03/14/11	AMEND: 3408	
03/01/11	AMEND: 3558	
02/17/11	AMEND: 3437	
02/15/11	AMEND: 3430	
02/15/11	ADOPT: 820.55 AMEND: 820, 820.3, 820.6, 820.7	
02/10/11	AMEND: 3601	
02/10/11	AMEND: 3434(b), (c)	
02/10/11	AMEND: 3423(b)	
Title 4		
06/21/11	AMEND: 1876	
06/15/11	ADOPT: 340 AMEND: 221, 222, 226, 230, 288, 300 REPEAL: 262	
05/31/11	AMEND: 8078.2	
04/18/11	AMEND: 10302, 10315, 10317, 10320, 10322, 10323, 10325, 10326, 10327, 10328	
04/01/11	ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036	
04/01/11	ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5060, 5061, 5062, 5063, 5064, 5080, 5081, 5082, 5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5140, 5141, 5142, 5143, 5150, 5151, 5152, 5153, 5154, 5155, 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192,	05/23/11 ADOPT: 13075.3, 13075.6, 13075.7, 13075.8, 13075.9 AMEND: 13075.1, 13075.2, 13075.4 (renumbered from 13075.3), 13075.5 (renumbered from 13075.4)
		05/02/11 ADOPT: 19817.2, 19817.5, 19840, 19846.1 AMEND: 19815, 19816, 19816.1, 19817.1, 19846
		05/02/11 ADOPT: 80036.4 AMEND: 80034, 80036, 80036.1, 80036.2, 80036.3, REPEAL: 80036.5
		04/13/11 AMEND: 850, 851, 852, 853, 853.5, 854, 855, 857, 858, 859, 861, 862, 870 (now 862.5), 864, 864.5, 866, 868
		04/12/11 ADOPT: 76020, 76140, 76212, 76240 AMEND: 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 76010, 76240
		03/28/11 ADOPT: 75010, 75100, 75500 AMEND: 74120, 74130, 74160, 74170
		03/24/11 ADOPT: 30001.5
		03/21/11 ADOPT: 10120 AMEND: 10070, 10071, 10075

03/15/11	ADOPT: 4800, 4801, 4802, 4803, 4804, 4805, 4806, 4807	03/22/11	AMEND: 2498.4.9
03/01/11	ADOPT: 1216.1	03/16/11	ADOPT: 2632.13.1 AMEND: 2632.13
02/22/11	ADOPT: 42398	03/16/11	AMEND: 5500, 5501, 5505, 5506, 5507
02/22/11	AMEND: 42375	03/03/11	ADOPT: 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596
Title 7		02/10/11	ADOPT: 2593, 2593.1, 2593.2, 2593.3, 2593.4, 2593.5, 2593.6, 2593.7
03/17/11	ADOPT: 211.5	02/02/11	AMEND: 2699.6500, 2699.6700, 2699.6707, 2699.6721
03/14/11	AMEND: 217	01/31/11	ADOPT: 3575, 3576, 3577 AMEND: 3500, 3522, 3523, 3524, 3526, 3527, 3528, 3529, 3530, 3582, 3681, 3702, 3703, 3721, 3724, 3726, 3728, 3731, 3741
02/02/11	AMEND: 215		
Title 8		Title 11	
06/20/11	AMEND: 10250.1	06/06/11	AMEND: 51.7
06/02/11	AMEND: 5154(j)(1)	06/01/11	AMEND: Article 20, section 51.2
05/31/11	AMEND: 5155	05/31/11	AMEND: Article 20, section 51.25
05/20/11	AMEND: 341.13, 341.14, 341.16, 341.17	05/25/11	ADOPT: Article 20, section 51.27
05/03/11	AMEND: 3657	05/24/11	AMEND: Article 20, section 51.15
05/02/11	AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464	05/24/11	AMEND: Article 20, section 51.24
04/26/11	AMEND: 3209	04/19/11	AMEND: 1005, 1007, 1008
04/18/11	ADOPT: 9792.5.0, 9792.5.1, 9792.5.2, 9792.5.3 AMEND: 9792.5	04/19/11	AMEND: 1018
04/18/11	AMEND: 344.30	04/13/11	AMEND: 1054
04/13/11	AMEND: 3380	04/11/11	ADOPT: 999.24, 999.25, 999.26, 999.27, 999.28, 999.29 AMEND: 999.10, 999.11, 999.14, 999.16, 999.17, 999.19, 999.20, 999.21, 999.22
03/28/11	AMEND: 3668(a)	03/30/11	AMEND: 9070, 9072, 9073, 9077
03/17/11	AMEND: 7102, 7104, 7160, 7178	03/16/11	AMEND: 2037
03/17/11	AMEND: 3207	01/31/11	ADOPT: 4075 AMEND: 4047, 4049, 4050, 4051, 4052, 4053, 4057, 4058, 4059, 4060, 4061, 4062, 4063, 4064, 4065, 4066, 4067, 4068, 4070, 4071, 4072, 4073, 4074 REPEAL: 4055
03/07/11	AMEND: 3328		
02/01/11	AMEND: 5291	Title 13	
Title 10		04/01/11	AMEND: 553.70
05/31/11	REPEAL: 2274.74, 2274.77	03/07/11	AMEND: 2477
05/23/11	AMEND: 2698.99	02/24/11	ADOPT: 551.21
05/16/11	AMEND: 2498.6	02/24/11	ADOPT: 551.19, 551.20, 551.23, 551.24, 551.25 AMEND: 550, 551.2, 551.11, 551.12
05/04/11	ADOPT: 260.004.1	02/22/11	AMEND: 551.14, 555.1, 584
04/25/11	ADOPT: 1409.1, 1414, 1422.4, 1422.4.1, 1422.4.5, 1422.5, 1422.6, 1422.6.1, 1422.6.2, 1422.6.3, 1422.7, 1422.7.1, 1422.9, 1422.10, 1422.11, 1422.12, 1424, 1437, 1950.122, 1950.122.2.1, 1950.122.4, 1950.122.4.1, 1950.122.5, 1950.122.5.1, 1950.122.5.2, 1950.122.5.3, 1950.122.5.4, 1950.122.6, 1950.122.7, 1950.122.8, 1950.122.9, 1950.122.10, 1950.122.11, 1950.122.12, 1950.122.15, 1950.205.1, 1950.209, 1950.307 AMEND: 1404, 1409, 1411, 1430.5, 1431, 1433, 1436, 1454, 1550, 1552, 1557, 1950.003, 1950.122.2, 1950.123, 1950.204.3, 1950.204.4, 1950.301, 1950.314.8, 1950.316, 1950.317	02/16/11	AMEND: 594, 595, 597 REPEAL: 593
04/18/11	AMEND: 2188.65, 2695.180	02/15/11	AMEND: 567, 583, 591, 593.1, 593.3
04/06/11	AMEND: 2498.4.9	02/15/11	AMEND: 272.00, 272.02
04/06/11	AMEND: 2498.4.9	01/27/11	AMEND: 2621(i), 2623
		Title 13, 17	
		06/20/11	AMEND: Title 13: 2299.5 and Title 17: 93118.5
		Title 14	
		06/21/11	AMEND: 7.50
		06/16/11	AMEND: 7.00, 7.50

06/13/11 AMEND: 632
 06/09/11 AMEND: 27.20, 27.25, 27.30, 27.32
 (renumbered to 27.35), 27.35
 (renumbered to 27.40), 27.45, 27.50,
 27.65, 28.26, 28.27, 28.28, 28.29, 28.48,
 28.49, 28.54, 28.55, 28.56, 28.58, 28.65,
 52.10, 150.16 REPEAL: 27.40, 28.51,
 28.52, 28.53, 28.57
 05/19/11 AMEND: 632
 05/12/11 ADOPT: 28301
 05/11/11 AMEND: 27.80
 05/03/11 AMEND: 790, 815.05, 816.01, 816.02,
 816.03, 816.05, 817.02, 817.03, 818.02,
 818.03, 825.05, 825.07, 826.01, 826.02,
 826.03, 826.05, 827.01, 827.02
 05/02/11 AMEND: 925.7, 925.10, 926.9, 926.10,
 927.5, 928.5, 928.6, 945.4, 965.4
 05/02/11 AMEND: 898.2
 04/29/11 ADOPT: 1570, 1571, 1572, 1572.1,
 1572.2, 1573, 1573.1, 1573.2, 1573.3,
 1573.4, 1573.5, 1573.6, 1574, 1575,
 1575.1, 1575.2, 1575.3, 1576
 04/25/11 AMEND: 1670
 04/06/11 ADOPT: 749.6
 04/01/11 AMEND: 27.80
 03/09/11 ADOPT: 703 AMEND: 671, 671.1, 671.7
 02/24/11 AMEND: 11600
 02/17/11 REPEAL: 19020, 19021, 19022, 19023,
 19024, 19025
 02/08/11 AMEND: 817.02
 02/07/11 ADOPT: 1052.5 AMEND: 895, 916.9,
 936.9, 956.9, 1052, 1052.1, 1052.2

Title 15

06/20/11 ADOPT: 8007, 8008 AMEND: 8000
 06/15/11 ADOPT: 3571, 3582, 3590, 3590.1,
 3590.2, 3590.3 AMEND: 3000
 06/15/11 ADOPT: 3571, 3582, 3590, 3590.1,
 3590.2, 3590.3 AMEND: 3000
 06/14/11 AMEND: 3000, 3045.3, 3123, 3134,
 3250.4, 3269.1, 3274, 3383, 3482
 06/02/11 AMEND: 3378
 05/26/11 ADOPT: 1747.1, 1749.1, 1750.1
 AMEND: 1706, 1747, 1748, 1749, 1750,
 1752, 1756, 1757, 1767
 05/26/11 AMEND: 3025, 3291, 3296, 3300, 3301,
 3383, 3397 REPEAL: 3302
 05/13/11 REPEAL: 1
 05/11/11 AMEND: 3335
 04/29/11 ADOPT: 3359.1, 3359.2, 3359.3, 3359.4,
 3359.5, 3359.6, 3359.7 AMEND: 3000
 04/15/11 ADOPT: 3769, 3769.1, 3769.2, 3769.3,
 3769.4, 3769.5, 3769.6
 03/28/11 AMEND: 3269
 03/09/11 ADOPT: 3800, 3800.1, 3800.2, 3800.3

03/03/11 ADOPT: 3520, 3521, 3521.1, 3521.2,
 3521.3, 3521.4, 3521.5, 3522, 3523,
 3525, 3526, 3527
 02/18/11 AMEND: 4710, 4711, 4712, 4713, 4714

Title 16

06/14/11 AMEND: 1398.44, 1399, 1399.85
 06/06/11 AMEND: 4144 now 4147
 05/24/11 ADOPT: 1810.1, 1810.2, 1816.8, 1820,
 1820.5, 1821, 1822 AMEND: 1800,
 1802, 1803, 1804, 1805, 1805.1, 1806,
 1807, 1807.2, 1810, 1811, 1812, 1813,
 1814, 1815, 1816, 1816.1, 1816.2,
 1816.3, 1816.4, 1816.5, 1816.6, 1816.7,
 1819.1, 1832, 1833.1, 1833.2, 1850.6,
 1850.7, 1870, 1870.1, 1874, 1877, 1880,
 1881, 1886, 1886.10, 1886.20, 1886.30,
 1886.40, 1886.50, 1886.60, 1886.70,
 1886.80, 1887, 1887.1, 1887.2, 1887.3,
 1887.4, 1887.5, 1887.6, 1887.7, 1887.8,
 1887.9, 1887.10, 1887.11, 1887.12,
 1887.13, 1887.14, 1888
 05/18/11 AMEND: 124
 05/18/11 AMEND: 1536
 05/09/11 ADOPT: 360, 363.1, 370 AMEND: 355
 now 371, 356 now 361, 356.5 to 362, 357
 now 363, 358 now 364, 360 now 366,
 355.1 now 372, 359 now 365 REPEAL:
 355.2
 04/28/11 ADOPT: 1131, 1132
 04/28/11 AMEND: 4150, 4151, 4152.1, 4153,
 4154, 4155
 04/26/11 AMEND: 1306
 04/25/11 AMEND: 48.3
 04/25/11 AMEND: 600.1, 601.5, 602, 602.1, 603,
 605, 607.4, 608.3, 627, 634, 635, 645
 04/15/11 ADOPT: 2007, 2010.05 AMEND:
 2085.1
 04/14/11 AMEND: 70
 04/14/11 ADOPT: 2086, 2086.1, 2086.2, 2086.3,
 2086.4, 2086.5, 2086.6, 2086.7, 2086.8,
 2086.9
 04/12/11 AMEND: 1328
 04/11/11 AMEND: 404, 424, 425, 438 REPEAL:
 460
 03/17/11 AMEND: 2260, 2266, 2282, 2282.1
 03/14/11 ADOPT: 4125 AMEND: 4123
 03/09/11 ADOPT: 1007, 1008 AMEND: 1017.2
 03/03/11 AMEND: 375
 03/03/11 AMEND: 117
 03/01/11 AMEND: 1399.157, 1399.160.3,
 1399.160.6
 02/23/11 AMEND: 400, 401, 404, 463.5, 3000,
 3003, 3021, 3065

02/08/11	AMEND: 1518, 1523, 1531, 1532, 1533, 1561	52514, 52515, 52600 AMEND: 52000, 52502, 52503, 52504, 52505, 52507, 52516
02/02/11	ADOPT: 1381.7, 1381.8, 1381.9	
02/01/11	ADOPT: 87.9, 88.2, 90	05/12/11 AMEND: 1256–9, 1256–10
01/31/11	AMEND: 2000, 2010, 2010.1, 2015, 2015.2, 2020, 2023, 2024 REPEAL: 2014.5, 2017, 2018	04/25/11 AMEND: 2708(c)–1
01/27/11	AMEND: 3394.3, 3394.4, 3394.5, 3394.6, 3394.7	04/21/11 AMEND: 60400, 60401, 60403, 60445, 60455, 64416, 64426, 64432, 64449, 64449.2, 64575, Appendix 64465–E
Title 17		04/12/11 AMEND: 66264.90, 66264.94, 66264.97, 66264.98, 66264.99, 66264.100, 66265.90, 66265.91, 66265.97, 66265.98, 66265.99
06/17/11	ADOPT: 95356	03/22/11 AMEND: 66250, 66250.1, 66250.2
06/16/11	ADOPT: 95600, 95601, 95602, 95603, 95604, 95605, 95606, 95607, 95608, 95609, 95610, 95611, 95612	02/15/11 ADOPT: 4451 AMEND: 4400, 4401.5, 4405, 4417, 4427, 4429, 4447
06/08/11	ADOPT: 30108.1, 30226 AMEND: 30108, 30115, 30125, 30145, 30190, 30191, 30192, 30192.1, 30192.2, 30192.3, 30192.4, 30192.5, 30192.6, 30225, 30257 REPEAL: 30236	Title 23
05/19/11	AMEND: 93115.3, 93115.4, 93115.6, 93115.7, 93115.8, 93115.9, 93115.10, 93115.13	06/21/11 ADOPT: 3959.4
04/21/11	AMEND: 7583	06/08/11 ADOPT: 3929.6
03/07/11	ADOPT: 100801	06/08/11 AMEND: 3006
02/17/11	AMEND: 52170, 52172, 52173	05/31/11 ADOPT: 3939.39
02/02/11	ADOPT: 95350, 95351, 95352, 95353, 95354, 95355, 95356, 95357, 95358, 95359	05/12/11 ADOPT: 3909.1
Title 18		05/06/11 ADOPT: 3939.38
06/22/11	AMEND: 1507	04/04/11 ADOPT: 3990
01/31/11	AMEND: 1506	03/17/11 ADOPT: 3949.7
Title 19		Title 25
06/21/11	AMEND: 200, 201, 202, 204, 208, 209, 212	03/07/11 AMEND: 5002, 5010, 5040
05/12/11	ADOPT: 2991, 2992, 2993, 2993.1, 2994, 2994.1, 2995, 2995.1, 2996, 2996.1, 2997, 2998, 2999	02/18/11 ADOPT: 1013, 1052, 1119, 1757, 1759, 2013, 2052, 2119, 2757, 2759 AMEND: 1002, 1008, 1018, 1104, 1118, 1180, 1211, 1333, 1334, 1334.2, 1336.1, 1346, 1377, 1426, 1429, 1432, 1446, 1450, 1458, 1464, 1468, 1474, 1498, 1500, 1502, 1504, 1506, 1612, 1618, 1750, 1752, 1754, 1756, 1758, 2002, 2008, 2018, 2104, 2118, 2211, 2230, 2334, 2346, 2426, 2429, 2432, 2468, 2474, 2498, 2500, 2502, 2504, 2506, 2612, 2750, 2752, 2754, 2756, 2758 REPEAL: 1613, 1615, 1616, 2613, 2615, 2616
02/18/11	ADOPT: 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998, 2999, 2999.1, 2999.2, 2999.3, 2999.4, 2999.5 AMEND: 2900	02/10/11 ADOPT: 4313 AMEND: 4300, 4302, 4304, 4306, 4308, 4310, 4312, 4314, 4316, 4318, 4320, 4322, 4324
Title 20		01/28/11 AMEND: 3070, 4204, 4210, 4212
05/09/11	ADOPT: 8.2 AMEND: 1.4, 1.5, 1.6, 1.8, 1.9, 1.10, 1.13, 1.15, 2.4, 2.5, 2.6, 3.1, 3.2, 4.1, 4.2, 4.3, 7.2, 8.1, 8.3, 8.4, 8.5, 8.6, 10.2, 13.7, 14.1, 14.2, 14.3, 14.5, 14.6, 16.1, 16.2, 16.6, Table of Filing Fees REPEAL: 8.5	01/26/11 ADOPT: 7980, 7980.1, 7980.2, 7980.3
03/24/11	ADOPT: 2700, 2701, 2702, 2703, 2704	Title 27
Title 21		03/30/11 AMEND: 25805
01/25/11	AMEND: 6680	03/17/11 AMEND: 25801, 25803
Title 22		02/16/11 AMEND: 27001
05/17/11	ADOPT: 52100, 52101, 52102, 52103, 52104, 52500, 52501, 52506, 52508, 52509, 52510, 52511, 52512, 52513,	01/26/11 AMEND: 25705
		01/26/11 AMEND: 25705
		Title MPP
		06/02/11 AMEND: 31–002, 31–075, 31–206, 31–320, 31–505, 31–510

02/15/11 AMEND: 16-015, 16-120, 16-601
REPEAL: 16-315
01/31/11 AMEND: 31-021